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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

SHIRLEY HINTON and HEATHER  
SHIPLEY, on behalf of themselves and  
all others similarly situated,

*Plaintiffs,*

v.

PLANNED PARENTHOOD  
FEDERATION OF AMERICA, INC.,

*Defendant.*

Case No.: 3:23-cv-04529-JD

**FIRST AMENDED COMPLAINT  
FOR DAMAGES  
CLASS ACTION  
JURY TRIAL DEMANDED**

1 Plaintiffs Shirley Hinton and Heather Shipley (“Plaintiffs”) hereby bring this  
2 action, on behalf of themselves and all persons and entities similarly situated, against  
3 Defendant Planned Parenthood Federation of America, Inc. (“Planned Parenthood” or  
4 “Defendant”). Plaintiffs allege, based on information and belief and investigation by  
5 counsel except where specifically alleged on the basis of personal knowledge, as follows:

6 **NATURE OF THIS ACTION**

7 1. This is a class action lawsuit for violations of the California Invasion of  
8 Privacy Act (“CIPA”), Cal. Penal Code § 631, as a result of Planned Parenthood’s  
9 unlawful disclosure, due to a lack of obtained consent, of its website users’ confidential  
10 and private healthcare information and other sensitive personally identifiable  
11 information (“PII”), such as name, phone number, physical address, email address,  
12 Internet Protocol (“IP”) address and Facebook ID (“FID”). The information taken  
13 together that is unlawfully disclosed, due to a total and blatant disregard for obtaining  
14 consent, by Planned Parenthood alarmingly reveals to undisclosed third parties the  
15 exact identity of its website users and information regarding their inherently private  
16 and personal sexual and reproductive healthcare.

17 2. Plaintiffs bring this class action against Defendant on behalf of all  
18 persons who have accessed and used in the state of California the website  
19 [www.plannedparenthood.org](http://www.plannedparenthood.org) and its related webpages (the “Website”), which is  
20 wholly owned and operated by Defendant.

21 3. While Planned Parenthood has both a Terms of Use and Privacy Policy  
22 listed on its Website, neither are enforceable or apply to Plaintiffs and class members.  
23 Regardless of their enforceability, not only do both fail to provide the required  
24 reasonably conspicuous notice to Website users that Planned Parenthood shares their  
25 private health information and other PII, but Planned Parenthood does not seek or  
26 obtain the required consent or authorization from its Website users before disclosing  
27 such information to third parties.

1           4.     Planned Parenthood intentionally and unlawfully aids, employs, agrees  
2 and conspires with various third parties, including Meta Platforms, Inc. (“Meta”)<sup>1</sup>,  
3 Google LLC (“Google”), Microsoft Corporation (“Microsoft”) and Yahoo Inc. (“Yahoo”)  
4 (collectively the “Third Parties”), to intercept communications sent and received by  
5 Plaintiffs and class members on its Website, including communications containing  
6 private and protected sexual and reproductive health information and other highly  
7 sensitive PII, all without authorization or consent.

8           5.     Planned Parenthood has intentionally and knowingly tapped or made an  
9 unauthorized connection with Plaintiffs’ and class members’ communications by  
10 voluntarily embedding the Third Parties’ tracking code (“Tracking Codes”), on its  
11 Website to bolster its benefits in various ways, including by using the data gathered  
12 by the Third Parties to build profiles for the purpose of retargeting and future  
13 marketing. Relatedly and significantly, the Third Parties do not only intercept the  
14 communications to provide analytics services for entities like Planned Parenthood, but  
15 they also collect, use and store the communications for their own benefit, including to  
16 improve their own personalized content delivery, advertising network machine-  
17 learning algorithms and ability to identify and target users. The information obtained  
18 by the Third Parties is used to identify specific individuals and their communications  
19 on the Website. This helps the Third Parties in many ways, and they seek to obtain as  
20 much information as possible on any given Internet user.

21           6.     Plaintiffs bring this action for legal and equitable remedies, including,  
22 but not limited to, statutorily provided damages of \$5,000 for each violation of CIPA ,  
23 against Planned Parenthood resulting from these unlawful actions.

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27           <sup>1</sup> In October 2021, Facebook, Inc. changed its name to Meta Platforms, Inc. Unless  
28 otherwise indicated, Facebook, Inc. and Meta Platforms, Inc. are referenced  
collectively as “Meta.”

**PARTIES**

7. Plaintiff Shirley Hinton is, and has been at all relevant times, a resident and citizen of the State of California.

8. Plaintiff Heather Shipley is, and has been at all relevant times, a resident and citizen of the State of California.

9. Defendant Planned Parenthood Federation of America, Inc. is a corporation organized under the laws of New York with its headquarters in New York City, New York. Planned Parenthood describes itself as a “trusted health care provider, an informed educator, a passionate advocate, and a global partner helping similar organizations around the world” that “delivers vital reproductive health care, sex education, and information to millions of people worldwide.”<sup>2</sup>

10. Planned Parenthood was established in 1916 and has since grown into a nationwide network of nearly 600 health centers operated by 49 different local affiliates.<sup>3</sup> It offers an extensive array of sexual and reproductive health services, including preventative care such as contraception, testing and treatment for sexually transmitted infections, as well as screenings for cervical and other types of cancers.

**JURISDICTION AND VENUE**

11. **Jurisdiction:** This Court has jurisdiction over this class action pursuant to 28 U.S.C. § 1332(d). The matter in controversy, exclusive of interest and costs, exceeds the sum or value of \$5,000,000, there are more than 100 putative members of the class defined below and is a class action in which Plaintiffs, as well as nearly all members of the class, are citizens of a state other than the state in which Planned Parenthood is incorporated and has its principal place of business.

12. This Court has personal jurisdiction over Planned Parenthood because it conducts substantial business in California. Planned Parenthood has dozens of

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<sup>2</sup> See Planned Parenthood Website, About Us, *available at* <https://www.plannedparenthood.org/about-us> (last accessed Aug. 1, 2023).

<sup>3</sup> See Planned Parenthood Website, Our History, *available at* <https://www.plannedparenthood.org/about-us/who-we-are/our-history> (last accessed Aug. 1, 2023).

1 physical health centers located in California, including over 50 in this District alone.<sup>4</sup>  
2 As a result, it regularly targets, markets and sells its services in California and this  
3 District. Planned Parenthood has sufficient minimum contacts with this State and  
4 sufficiently avails itself to the markets of this State through its services offered and  
5 marketing within this State to render the exercise of jurisdiction by this Court  
6 permissible. This Court's exercise of personal jurisdiction over Planned Parenthood  
7 also does not offend traditional notions of fair play and substantial justice.

8 13. Planned Parenthood has continuous and systematic contact with  
9 California not only through its physical locations in the State, but also through its  
10 Website and related services and information offered through it, including telehealth  
11 appointments it regularly offers, markets and provides to California residents in this  
12 District, as the Website is available for use in California and this District. Planned  
13 Parenthood also calls, texts and emails Website users, including Plaintiffs and other  
14 members of the class, regarding their healthcare and otherwise communicates with  
15 users via its Website.

16 14. California and this District also have a strong interest in this lawsuit to  
17 ensure that the privacy rights of California citizens are protected, as required by  
18 CIPA. Plaintiffs and other members of the class likewise have a strong interest in  
19 safeguarding their California privacy rights and will be able to best obtain effective  
20 relief in this jurisdiction, which has heard several CIPA lawsuits to date and has  
21 several currently pending on its docket.

22 15. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2), (c) and (d) because a  
23 substantial part of the events, acts or omissions giving rise to Plaintiffs' claims herein  
24 occurred in this District. Venue is also proper under 18 U.S.C. § 1965(a) because

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25  
26 <sup>4</sup> See Planned Parenthood Northern California Website, *available at* [https://www.plannedparenthood.org/planned-parenthood-northern-california/get-care/our-health-](https://www.plannedparenthood.org/planned-parenthood-northern-california/get-care/our-health-centers)  
27 [centers](https://www.plannedparenthood.org/planned-parenthood-northern-california/get-care/our-health-centers) (last accessed Aug. 1, 2023); Planned Parenthood Mar Monte Website,  
28 *available at* [https://www.plannedparenthood.org/planned-parenthood-mar-monte/](https://www.plannedparenthood.org/planned-parenthood-mar-monte/campaigns/health-center-maps)  
[campaigns/health-center-maps](https://www.plannedparenthood.org/planned-parenthood-mar-monte/campaigns/health-center-maps) (last accessed Aug. 1, 2023).

1 Planned Parenthood transacts substantial business in this District. Moreover, the  
2 majority of the Third Parties are residents of this District.

3 16. **Divisional Assignment:** This action arises in San Mateo County, in  
4 that a substantial part of the events which give rise to the claims asserted herein  
5 occurred in San Mateo County. Pursuant to L.R. 3-2(d), all civil actions that arise in  
6 San Mateo County shall be assigned to the San Francisco or Oakland Division.

### 7 FACTUAL BACKGROUND

#### 8 **I. Planned Parenthood's Online Website**

9 17. Planned Parenthood offers inpatient, outpatient and specialty healthcare  
10 nationwide. With over 100 clinics in California alone that serve nearly a million  
11 California residents per year, it is one of California's major healthcare providers.<sup>5</sup>  
12 Planned Parenthood offers both in-person and telehealth appointments through its  
13 Website.

14 18. Planned Parenthood offers a full range of medical services but specializes  
15 in sexual and reproductive healthcare. The services offered through its Website  
16 include:

- 17 i. abortion services and referral;
- 18 ii. birth control;
- 19 iii. emergency contraception (morning-after pill);
- 20 iv. primary care;
- 21 v. HIV services;
- 22 vi. transgender hormone therapy;
- vii. men's health services (sexual dysfunction, cancer screenings,  
etc.);
- viii. patient sexual and reproductive healthcare education;
- ix. pregnancy testing and services;
- x. STD testing, treatment and vaccines; and
- xi. women's services (pelvic exams, cancer screenings, etc.).

23 19. The Website is accessible on all web browsers via mobile devices, desktop  
24 computers, tablets or similar devices.

25  
26 <sup>5</sup> See Young, Samantha, *If feds strip Planned Parenthood's funding, California would*  
27 *be especially hard hit*, Cal Matters, Mar. 2, 2017, available at <https://calmatters.org/health/2017/03/why-health-care-in-california-could-be-hardest-hit-if-planned-parenthood-loses-federal-funds/> (last accessed Aug 1, 2023).  
28

1           20. Website users communicate and input their private and personal sexual  
2 and reproductive healthcare information and other sensitive PII in various ways via  
3 the Website. The healthcare information users disclose on the Website includes their  
4 sexual and reproductive healthcare history, the types of services and treatment they  
5 research and seek, when they research and schedule an appointment and  
6 prescriptions they research, request and are prescribed. The PII users disclose on the  
7 Website includes things like name, phone number, physical address, email address,  
8 IP address and FID. Taken together, this information reveals an enormous amount of  
9 information related to each specific Website user and their identity.

10           21. When using the Website, women are required to communicate and  
11 convey information to Planned Parenthood related to their own sexual and  
12 reproductive health to receive services, including, but not limited to, information  
13 regarding their sexual and reproductive health history, including specific and detailed  
14 information regarding their menstrual cycle, abortion history and sexually  
15 transmitted infection history, as well as information regarding various sexual and  
16 reproductive services and treatment they seek and receive from Planned Parenthood  
17 (“Women’s Services”). Women also are required to provide Planned Parenthood with  
18 significant PII that identifies themselves, and Planned Parenthood collects PII from  
19 women while they use the Website.

20           22. Men also are required to communicate and convey information to  
21 Planned Parenthood related to their own sexual and reproductive health to receive  
22 services, including, but not limited to, information regarding their sexual and  
23 reproductive health history, including specific and detailed information regarding  
24 sexual dysfunction, birth control and sexually transmitted infection history, as well as  
25 information regarding various sexual and reproductive services and treatment they  
26 seek and receive from Planned Parenthood (“Men’s Services”). Men are required to  
27 provide Planned Parenthood with significant PII that identifies themselves, and  
28 Planned Parenthood collects PII from men while they use the Website.

1           23. The PII provided by Website users and collected by Planned Parenthood  
2 along with their healthcare information allows the Third Parties to identify specific  
3 users and access their communications on the Website.

4           24. As part of providing sexual and reproductive healthcare, Planned  
5 Parenthood also offers prescriptions like birth control<sup>6</sup>, and Planned Parenthood also  
6 offers over-the-counter sexual and reproductive healthcare products like condoms.<sup>7</sup>

7           25. Planned Parenthood knowingly and intentionally incorporates a host of  
8 tracking technology, including the Tracking Codes, on its Website for marketing,  
9 advertising, analytics and other purposes without full and proper disclosure, let alone  
10 obtaining consent, to and from its Website users.

11           26. Planned Parenthood knew at the time it incorporated this software into  
12 its Website that it would result in the unlawful disclosure and interception of its  
13 Website users' communications on its Website by virtue of how these technologies  
14 function and the analytics and insight it receives as a result, yet it still chose not to  
15 obtain the proper consent or authorization required for disclosure. The consequences  
16 and dangers of these technologies is also becoming ubiquitous, and as one of the  
17 biggest healthcare providers in California, Planned Parenthood should especially be  
18 aware of the dangers posed by embedding the Tracking Codes on its Website.

19           27. The Third Parties allow website developers, like Planned Parenthood, to  
20 use the Tracking Codes in a mutually beneficial relationship in which both have full  
21 access to the data collected. As part of their symbiotic relationship, the Third Parties  
22 also provide Planned Parenthood with tools and analytics to leverage the information  
23 to reach individuals through advertisements. Planned Parenthood was fully aware of  
24

25  
26 <sup>6</sup> See Birth control now, from your phone to your door, Planned Parenthood, *available*  
27 *at* <https://www.plannedparenthood.org/get-care/ppdirect> (last accessed Aug. 1, 2023).

28 <sup>7</sup> See How do I get condoms?, Planned Parenthood, *available at* <https://www.plannedparenthood.org/learn/birth-control/condom/how-do-i-get-condoms> (last accessed Aug. 1, 2023).



1 the sensitive nature of the data that it unlawfully disclosed and aided the Third  
2 Parties to intercept.

3 28. Despite this, Planned Parenthood intentionally chose and continues to  
4 incorporate the Third Parties' technologies into its Website to reap their benefit,  
5 including by increasing its overall revenue through advertisements and by improving  
6 the functionality of its website.

7 29. Planned Parenthood failed to obtain consent or proper authorization to  
8 disclose and assist in the interception of its Website users' private communications on  
9 its Website, and it did not fully inform or disclose to its Website users that it was  
10 sharing their inherently private and personal health information and other sensitive  
11 PII.

12 30. Planned Parenthood leaves Website users not only unaware that it  
13 reveals their identity and private healthcare information to the Third Parties, but it  
14 leaves them further unaware that the disclosure of this information allows the Third  
15 Parties to benefit off the unlawfully disclosed information.

16 **II. Plaintiffs and Class Members Have a Reasonable Expectation of**  
17 **Privacy in Their Private and Personal Sexual and Reproductive**  
**Health Information and Other Sensitive PII**

18 31. Plaintiffs and Class members have a reasonable expectation of privacy  
19 in their personal data and information communicated to Planned Parenthood through  
20 its Website, which includes private and personal sexual and reproductive health  
21 information and other sensitive PII, often dealing with Women's Services and Men's  
22 Services.

23 32. Planned Parenthood is a covered entity under the Health Insurance  
24 Portability and Accountability Act, 42 U.S.C. § 1302, *et seq.* ("HIPAA"), which sets  
25 minimum federal standards for privacy and security of protected health information  
26 ("PHI"). PHI includes Women's Services and Men's Services.

27 33. HIPAA defines "protected health information" as "individually  
28 identifiable health information" that is "transmitted by electronic media; maintained

1 in electronic media; or transmitted or maintained in any other form or medium.” 45  
 2 C.F.R. § 160.103.

3 34. Under 45 C.F.R. § 160.103, HIPAA defines “individually identifiable  
 4 information” as a “subset of health information, including demographic information  
 5 collected from an individual” that is:

- 6 i. created or received by a healthcare provider;
- 7 ii. relates to the past, present or future physical or mental health  
 8 or condition of an individual; the provision or health care to an  
 9 individual; or the past, present or future payment for the  
 10 provision of health care to an individual; and
- 11 iii. either identifies the individual or there is a reasonable basis to  
 12 believe the information can be used to identify the individual.

13 35. HIPAA requires Planned Parenthood to:

- 14 i. ensure the confidentiality, integrity and availability of all  
 15 electronic PHI it creates, receives, maintains or transmits;
- 16 ii. identify and protect against reasonably anticipated threats to  
 17 the security or integrity of the electronic PHI;
- 18 iii. protect against reasonably anticipated impermissible uses or  
 19 disclosures of the PHI; and
- 20 iv. ensure compliance by its workforce to satisfy HIPAA’s security  
 21 requirements.

22 45 C.F.R. § 164.102, *et seq.*

23 36. HIPAA further prohibits a healthcare provider from disclosing PHI to  
 24 third parties except when an individual has expressly consented in advance to the  
 25 disclosure or under certain HIPAA-compliant contracts. 45 C.F.R. §§ 164.502 &  
 26 164.508.

27 37. Neither Planned Parenthood nor any of the Third Parties obtained  
 28 Plaintiffs’ and class members’ express consent to share or intercept their PHI, nor  
 have Planned Parenthood or the Third Parties entered into a HIPAA-compliant  
 contract that would permit sharing such health information.

38 38. In order to access care through the Website, Plaintiffs and class members  
 must not only disclose PHI, but they must disclose the most sensitive PHI a person

1 has, namely, PHI related to personal sexual and reproductive health. Plaintiffs and  
 2 class members are required to provide this information in order to receive services  
 3 from Planned Parenthood on its Website, and they provide this protected, personal  
 4 and extremely private information with the understanding that Planned Parenthood  
 5 is prohibited by HIPAA from disclosing it.

6 39. The extremely sensitive and private nature of personal sexual and  
 7 reproductive health information is evidenced by the fact that there are many laws that  
 8 give additional special protections related to sexual and reproductive health on top of  
 9 the protections already given to PHI generally.<sup>8</sup> As the FTC recently noted, “the  
 10 exposure of health information and medical conditions, *especially data related to*  
 11 *sexual activity or reproductive health*, may subject people to discrimination, stigma,  
 12 mental anguish, or other serious harms.”<sup>9</sup>

13 40. Unlike other forms of PMI, the unlawful disclosure of personal sexual  
 14 and reproductive healthcare may expose people to political, religious and familial  
 15 controversy,<sup>10</sup> and public or third party knowledge of an individual’s sexual and  
 16 reproductive history may place them at risk of stigmatization.<sup>11</sup> Additionally, poor  
 17 privacy and confidentiality practices regarding someone’s use of contraceptives and  
 18  
 19

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20 <sup>8</sup> See Recommendations Regarding Sensitive Health Information, National Comm-  
 21 ittee on Vital and Health Statistics, Nov. 10, 2010, *available at* [https://ncvhs.hhs.gov](https://ncvhs.hhs.gov/wp-content/uploads/2014/05/101110lt.pdf)  
 22 */wp-content/uploads/2014/05/101110lt.pdf* (last accessed Aug. 1, 2023).

23 <sup>9</sup> See Cohen, Kristin, *Location, health and other sensitive information: FTC committed*  
 24 *to fully enforcing the law against illegal use and sharing of highly sensitive data*,  
 25 Federal Trade Commission, July 11, 2022, *available at* [https://www.ftc.gov/business-](https://www.ftc.gov/business-guidance/blog/2022/07/location-health-and-other-sensitive-information-ftc-committ)  
 26 [guidance/blog/2022/07/location-health-and-other-sensitive-information-ftc-committ](https://www.ftc.gov/business-guidance/blog/2022/07/location-health-and-other-sensitive-information-ftc-committ)  
 27 [ed-fully-enforcing-law-against-illegal](https://www.ftc.gov/business-guidance/blog/2022/07/location-health-and-other-sensitive-information-ftc-committ) (emphasis added) (last accessed Aug. 1, 2023).

28 <sup>10</sup> See Recommendations, *supra* footnote 8; See also Religious Liberty and Access to  
 Reproductive Health Care, American Bar Association, *available at* [https://www.americanbar.org/groups/crsj/publications/human\\_rights\\_magazine\\_ho](https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/intersection-of-lgbtq-rights-and-religious-freedom/religious-liberty-and-access-to-reproductive-health-care/)  
[me/intersection-of-lgbtq-rights-and-religious-freedom/religious-liberty-and-access-](https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/intersection-of-lgbtq-rights-and-religious-freedom/religious-liberty-and-access-to-reproductive-health-care/)  
[toreproductive-health-care/](https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/intersection-of-lgbtq-rights-and-religious-freedom/religious-liberty-and-access-to-reproductive-health-care/) (last accessed Aug. 1, 2023).

<sup>11</sup> See Recommendations, *supra* footnote 8.

1 other forms of birth control are believed to especially put at risk adolescents and young  
2 adults, including in the healthcare service quality they receive.<sup>12</sup>

3 41. Planned Parenthood's legal obligations as a covered entity under HIPAA,  
4 in addition to the express and implied assurances of confidentiality it makes on its  
5 Website, create a reasonable expectation in Website users that their communications  
6 on the Website, which include their PHI, will remain private and confidential and not  
7 be shared with undisclosed third parties, including Meta, Google, Microsoft and  
8 Yahoo.

### 9 **III. Plaintiffs and Class Members Did Not Consent to Planned** 10 **Parenthood's Collection and/or Use of Their Data**

11 42. Plaintiffs and class members have no idea that the Third Parties, at  
12 Planned Parenthood's direction, unlawfully collect, use and store their PHI and other  
13 sensitive PII that reveals their identity when they interact with the Website.

14 43. There is no indication, let alone proper and full disclosure, that the  
15 Tracking Codes are embedded on the Website to collect users' PHI and other sensitive  
16 PII that identifies Website users.

17 44. While Planned Parenthood has both a Terms of Use<sup>13</sup> and Privacy  
18 Policy<sup>14</sup> (collectively the "Policies") listed on its Website, neither are enforceable or  
19 apply to Plaintiffs and class members. They are both in the form of what is known as  
20 a browse-wrap agreement.

21 45. Website users who enter the Website are not made aware of Planned  
22 Parenthood's Policies because they are located in small letters at the very bottom of

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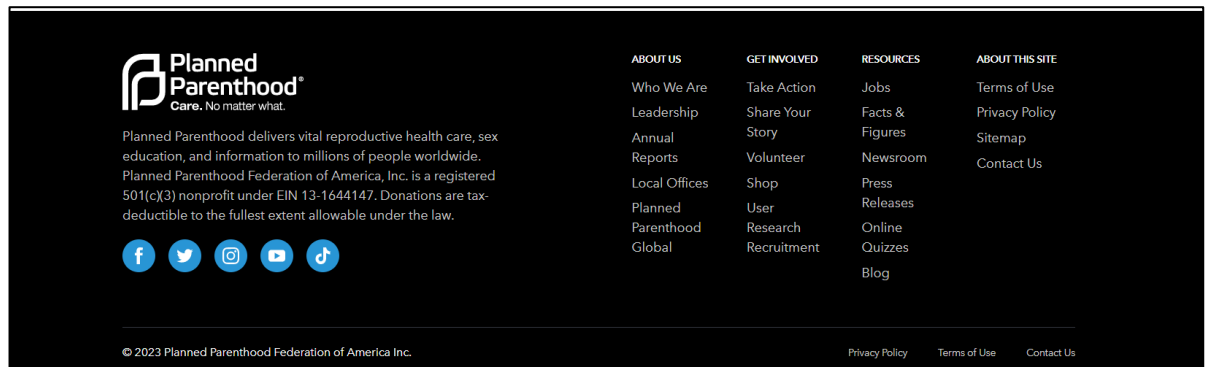
23 <sup>12</sup> Tchounwou, Paul, *Exploring and Monitoring Privacy, Confidentiality, and Provider*  
24 *Bias in Sexual and Reproductive Health Service Provision to Young People: A*  
25 *Narrative Review*, International Journal of Environmental Research and Public  
26 Health, May 27, 2022, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9180733/> (last accessed Aug. 1, 2023).

27 <sup>13</sup> See Planned Parenthood's Terms of Use, available at <https://www.plannedparenthood.org/terms-use> (last accessed Aug. 1, 2023).

28 <sup>14</sup> See Planned Parenthood's Privacy Policy, last updated June 7, 2021, available at <https://www.plannedparenthood.org/privacy-policy> (last accessed Aug. 1, 2023).

the Website's homepage among many other links. The first screenshot below is a highly zoomed in depiction of where the links for Planned Parenthood's Policies are located at the bottom of the Website's homepage. The second screenshot below is a depiction of the Website's entire homepage, which shows how hidden and buried the Policies are and how much "scrolling" is required by a Website user to finally reach the Policies' links at the bottom of the webpage. As evidenced by the first screenshot, the font for Planned Parenthood's policies is the same white font used throughout much of the Website without any distinguishing features. The size of the font for the links is some of the smallest on the entire page, and there is no indication that you can click on either the Terms of Use or Privacy Policy or that either are hyperlinked. They are not in a different color and not underlined.

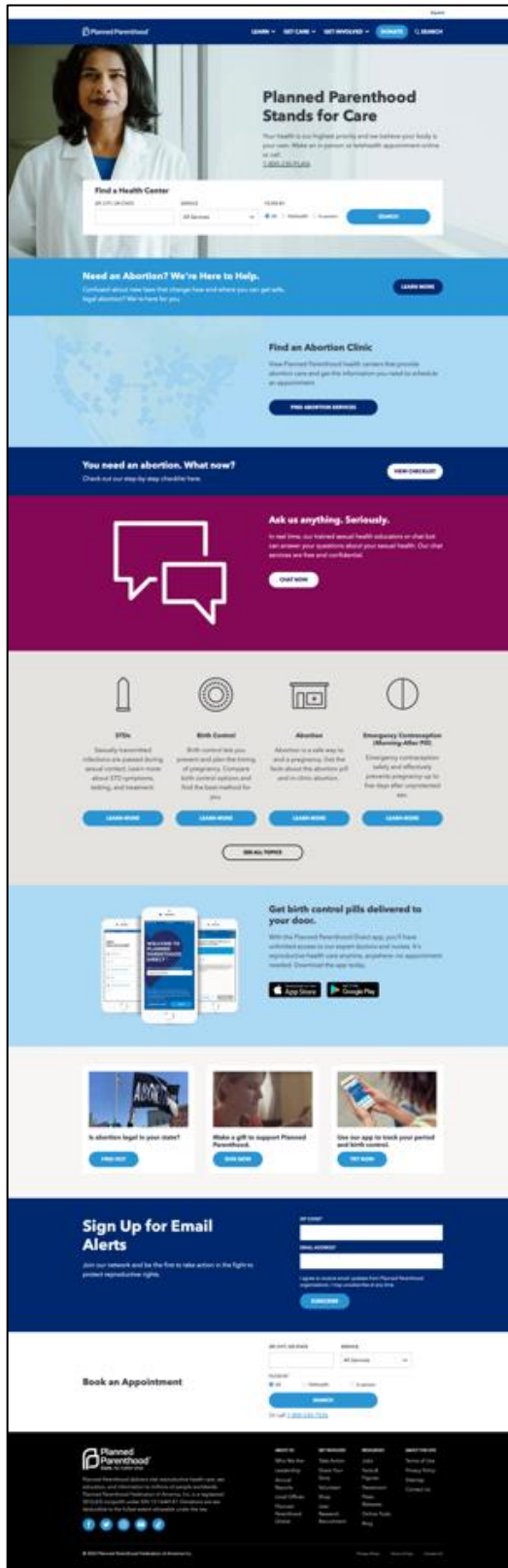
15



16

<sup>15</sup> Screenshot taken on May 18-19, 2023 via Chrome web browser.

<sup>16</sup> Screenshot taken on August 24, 2023 via Chrome web browser.



46. Throughout the entire process of Website users using the Website for healthcare services, including conducting searches for different medical conditions

1 and scheduling appointments, users are never presented with the Website's Terms of  
2 Use or Privacy Policy. When searching for medical conditions and scheduling  
3 appointments, there is absolutely no need, requirement or reason for a Website user  
4 to scroll to the very bottom of the webpage in order to receive services or otherwise use  
5 the Website.

6 47. As the Ninth Circuit recently held, for website agreement terms to be  
7 held enforceable: 1) they must be "reasonably conspicuous," and 2) users must  
8 "manifest unambiguous assent." *Berman v. Freedom Financial Network, LLC*, 30  
9 F.4th 849 (9th Cir. 2022). Planned Parenthood's Policies are not enforceable because  
10 they fail both requirements.

11 48. First, reasonably conspicuous notice requires notice that is so obvious  
12 that there can be no doubt of the user's knowledge of the terms. *See id.* Plaintiffs and  
13 class members had no reason to scroll to the bottom of the Website when searching for  
14 and scheduling medical appointments, and even if they did, there is no indication that  
15 the Terms of Use and Privacy Policy are hyperlinked (this only becomes known after  
16 a Website user hovers the computer, tablet, phone or similar pointer, clicker or mouse  
17 over the words). Second, Plaintiffs and class members also never manifested  
18 unambiguous assent because it requires a user to unequivocally agree to the policy.  
19 *Id.* Not only did Plaintiffs never see the Policies, but they were never asked to accept  
20 or consent to them, whether when first entering the Website with a pop-up, by  
21 checking a consent box, by clicking a button on the Website or in any other manner at  
22 any point during the healthcare researching and appointment scheduling process.

23 49. Even if the Terms of Use were to be found enforceable, which Plaintiffs  
24 deny, Plaintiffs and class members do not have reasonably conspicuous notice from  
25 the policy that Planned Parenthood shares its Website users' PHI in combination with  
26 other PII that reveals their identity and private sexual and reproductive health  
27 information. In its Terms of Use, Planned Parenthood has a section titled, "What  
28 Information Do We Collect," and the following, which includes all language from this



1 section, is the only language the Terms of Use has on information that Planned  
2 Parenthood collects and shares:

3 When using the Online Services you may be asked if you would like to  
4 share certain personal health information collected by Apple's HealthKit  
5 with Planned Parenthood. By clicking on "SYNC" you are authorizing  
Planned Parenthood to collect such information. Sharing this information  
is voluntary; you do not have to click "SYNC" in order to use the Service.<sup>17</sup>

6 50. The Apple HealthKit is not associated with the healthcare researching  
7 and scheduling feature of the Website and has its own separate consent procedure.  
8 Therefore, nowhere in the Terms of Use does Planned Parenthood disclose that it is  
9 sharing its Website users' PHI in combination with other sensitive PII that reveals  
10 their identity and inherently private sexual and reproductive health information  
11 when they interact with the Website to research healthcare and schedule  
12 appointments. Because of this, Plaintiffs and other class members could never, and  
13 never did, manifest unambiguous consent to the disclosure of such information.

14 51. Likewise, even if its Privacy Policy were to be found enforceable, which  
15 Plaintiffs deny, Plaintiffs and class members do not have reasonably conspicuous  
16 notice from it that Planned Parenthood shares its Website users' PHI in combination  
17 with other PII that reveals their identity and private sexual and reproductive health  
18 information. The Privacy Policy acknowledges the use of Google trackers and offers a  
19 link for a user to opt-out, but it hides significant information related to the Google  
20 tracking codes' true use and all of the information it is actually collecting.<sup>18</sup> There is  
21 no mention of any of the other Third Parties.<sup>19</sup> While the Privacy Policy acknowledges  
22 the possibility of disclosing information to service providers working on its behalf, it  
23 explicitly states that it does not apply to information shared by users in connection  
24 with healthcare services received online or through in-person visits at Planned  
25 Parenthood facilities, as such information is protected by state and federal law.<sup>20</sup> Since

26 <sup>17</sup> See Terms of Use, *supra* footnote 13.

27 <sup>18</sup> See Privacy Policy, *supra* footnote 14.

28 <sup>19</sup> *Id.*

<sup>20</sup> *Id.*



1 Plaintiffs allege that the information being unlawfully disclosed by Planned  
2 Parenthood to the Third Parties constitutes information in connection with healthcare  
3 services received online, the Privacy Policy does not provide reasonably conspicuous  
4 notice that Planned Parenthood shares its Website users' PHI in combination with  
5 other PII that reveals their identity. Consequently, Plaintiffs and other class members  
6 could never, and never did, manifest unambiguous consent to the disclosure of this  
7 information.

8         52. The only other time a Website user is presented with the Terms of Use  
9 and Privacy Policy in a different location than at the bottom of the Website depicted  
10 in footnotes 15 and 16 is when a Website user tries to donate to Planned Parenthood,  
11 as evidenced in the below screenshot. However, under the same analysis as in *Berman*,  
12 the Policies are not enforceable against Planned Parenthood donators because the  
13 notice is still not reasonably conspicuous and donators cannot, and do not, manifest  
14 unambiguous assent to the Policies. While the Policies are noticeably hyperlinked in  
15 a different color unlike on the Website's other pages, they are still in some of the  
16 smallest font on the webpage, they are not underlined, the notice of the Policies is  
17 located under, rather than above, the button a user needs to click to make a donation,  
18 the print is faint and set against a background lacking significant contrast and the  
19 user is not required to click the hyperlinks or otherwise read the Policies to proceed or  
20 otherwise affirmatively indicate that they agree to the Policies.

**Planned Parenthood**

## Protect and restore abortion access.

Planned Parenthood needs you – give now.

From the Supreme Court to statehouses nationwide, the right to control our bodies is under attack like never before. Together, we must protect and restore access to sexual and reproductive health care, including abortion.

Help Planned Parenthood stand up for patients and protect our rights. **Make your tax-deductible gift today so we can continue to protect and provide care, no matter what.**

**Give to Planned Parenthood** **Specific Giving**

Make a gift and share your impact with your local Planned Parenthood organization and Planned Parenthood Federation of America.

Take future action with a single click. Log in or sign up for RedAction.

**Gift Information**

☐ One-Time ☒ Monthly

A monthly gift does even more to protect reproductive rights

\$50 \$35 \$25 \$15

\$0.00

☐ I'd like to cover the 3.25% processing fees, making my total gift **\$36.14**, so my gift goes even further to protect reproductive health.

☐ I'd like to make this gift in honor or in memory of someone special

**CREDIT CARD** **PAY WITH BANK ACCOUNT** **PayPal**

Planned Parenthood respects your privacy, and works to ensure your information is kept confidential. Feel free to review our privacy policy and our website's terms of use, and reach out with any questions.

53. Therefore, the Website does not have any enforceable terms of use, user agreement, privacy policy or any other provision that permits the disclosure of its Website users' PHI and other sensitive PII to the Third Parties.

54. While using the Website, Plaintiffs and class members had no reason to visit the Third Parties' websites to review their separate terms of use and/or privacy policies because they were unaware that Planned Parenthood shared their PHI and other sensitive PII with the Third Parties. Plaintiffs and class members also had no reason to know that the Third Parties were using their private communications for their own analytics and advertising purposes.

55. Notwithstanding its unenforceable disclosures, Planned Parenthood does not have an unlimited right to share Plaintiffs' and class members' health data. Planned Parenthood is a covered entity under HIPAA, which protects all electronic PHI Planned Parenthood "creates, receives, maintains, or transmits" in electronic form. *See* 45 C.F.R. § 160.103.

<sup>21</sup> Screenshot taken on May 18-19, 2023 via Chrome web browser.

1           56. Further, HIPAA does not permit the use or disclosure of PHI to the Third  
2 Parties for use in targeted advertising without Plaintiffs' and class members' express  
3 consent unless Planned Parenthood and the Third Parties entered into a HIPAA-  
4 approved contract with Planned Parenthood's Website users. *See* 45 C.F.R. §§ 164.502  
5 & 164.508.

6           57. Neither Planned Parenthood nor the Third Parties obtained Plaintiffs'  
7 and class members' express consent to share their PHI, nor have Planned Parenthood  
8 or the Third Parties entered into a HIPAA-compliant contract that would permit such  
9 sharing.

10           58. Thus, Planned Parenthood did not obtain consent to collect, use, store  
11 and assist in the interception of Plaintiffs' and class members' PHI and other sensitive  
12 PII that identifies Website users.

#### 13 **IV. Planned Parenthood Shares Information With Third Parties**

##### 14 **a. Meta**

15           59. Planned Parenthood is unlawfully disclosing, due to a lack of obtained  
16 consent, to Meta its Website users' private and personal health information and other  
17 PII. This information reveals each Website user's specific identity that Meta then uses  
18 for advertising, analytics and other purposes.

19           60. Meta is one of the largest advertising companies in the county. Its  
20 advertising business began back in 2007 with the creation of "Facebook Ads," which  
21 was marketed as a completely new way of advertising online that would allow  
22 advertisers to deliver more tailored and relevant ads.<sup>22</sup>

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<sup>22</sup> Facebook Unveils Facebook Ads, Meta, Nov. 6, 2007, *available at* <https://about.fb.com/news/2007/11/facebook-unveils-facebook-ads/> (last accessed Aug. 1, 2023).

1           61. Facebook describes itself as a “real identity platform,”<sup>23</sup> meaning users  
2 are allowed only one account and must share “the name they go by in everyday life.”<sup>24</sup>  
3 To that end, when creating an account, users must provide their first and last name,  
4 along with their birthday and gender.<sup>25</sup>

5           62. In 2021, Meta generated over \$117 billion in revenue,<sup>26</sup> and substantially  
6 all of Meta’s revenue is generated by selling advertising space.<sup>27</sup>

7           63. Meta sells advertising space by highlighting its ability to target users.<sup>28</sup>  
8 Meta can target users effectively because it has access to user activity both on and off  
9 its site.<sup>29</sup> This allows Meta to make inferences about users beyond what they explicitly  
10 disclose, like their “interests” and “behavior.”<sup>30</sup> Meta compiles this information into a  
11 generalized dataset called “Core Audiences,” which allows advertisers to reach precise  
12 audiences based on specified targeting types.<sup>31</sup>

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16 <sup>23</sup> Sam Schechner and Jeff Horwitz, *How Many Users Does Facebook Have? The*  
17 *Company Struggles to Figure It Out*, Wall. St. J., Oct. 21, 2021, available at  
18 [https://www.wsj.com/articles/how-many-users-does-facebook-have-the-company-str](https://www.wsj.com/articles/how-many-users-does-facebook-have-the-company-struggles-to-figure-it-out-11634846701#)  
19 [uggles-to-figure-it-out-11634846701#](https://www.wsj.com/articles/how-many-users-does-facebook-have-the-company-struggles-to-figure-it-out-11634846701#) (last accessed Aug. 1, 2023).

20 <sup>24</sup> Facebook, Community Standards, Part IV, Integrity And Authenticity, available  
21 at <https://www.facebook.com/communitystandards/integrityauthenticity> (last  
22 accessed Aug. 1, 2023).

23 <sup>25</sup> Facebook, Sign Up, available at <https://www.facebook.com> (last accessed Aug. 1,  
24 2023).

25 <sup>26</sup> Facebook, Meta Annual Report 2021, available at [https://s21.q4cdn.com/39968073](https://s21.q4cdn.com/399680738/files/doc_financials/annual_reports/2023/2021-Annual-Report.pdf)  
26 [8/files/doc\\_financials/annual\\_reports/2023/2021-Annual-Report.pdf](https://s21.q4cdn.com/399680738/files/doc_financials/annual_reports/2023/2021-Annual-Report.pdf) (last accessed  
27 Aug. 1, 2023).

28 <sup>27</sup> *See id.*

<sup>28</sup> Why advertise On Facebook, Instagram And Other Meta technologies, Facebook,  
available at <https://www.facebook.com/business/help/205029060038706> (last  
accessed Aug. 1, 2023).

<sup>29</sup> About Meta Pixel, Facebook, available at [https://www.facebook.com/business/help/](https://www.facebook.com/business/help/742478679120153?id=1205376682832142)  
742478679120153?id=1205376682832142 (last accessed Aug. 1, 2023).

<sup>30</sup> Audience ad targeting, Facebook, available at [https://www.facebook.com/business](https://www.facebook.com/business/ads/ad-targeting)  
/ads/ad-targeting (last accessed Aug. 1, 2023).

<sup>31</sup> Core Audiences, Facebook, available at [https://www.facebook.com/business/news/](https://www.facebook.com/business/news/Core-Audiences)  
Core-Audiences (last accessed Aug. 1, 2023).

64. Advertisers can also build “Custom Audiences.”<sup>32</sup> Custom Audiences enable advertisers to reach “people who have already shown interest in [their] business, whether they’re loyal customers or people who have used [their] app or visited [their] website.”<sup>33</sup>

65. With Custom Audiences, advertisers can target existing customers directly, and they can also build “Lookalike Audiences,” which “leverages information such as demographics, interests and behaviors from your source audience to find new people who share similar qualities.”<sup>34</sup>

66. Unlike Core Audiences, advertisers can build Custom Audiences and Lookalike Audiences only if they first supply Meta with the underlying data. They can do so through two mechanisms: by manually uploading customers’ contact information or by utilizing Meta’s “Business Tools.”<sup>35</sup>

67. The Meta Business Tools “help website owners and publishers, app developers, and business partners, including advertisers and others, integrate with [Facebook], understand and measure their products and services, and better reach and serve people who use or might be interested in their products and services.”<sup>36</sup> Put more succinctly, Meta’s Business Tools are bits of code that advertisers can integrate into

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<sup>32</sup> About Custom Audiences, Facebook, *available at* <https://www.facebook.com/business/help/744354708981227?id=2469097953376494> (last accessed Aug. 1, 2023).

<sup>33</sup> *See* Audience Ad Targeting, *supra* footnote 30.

<sup>34</sup> About lookalike audiences, Facebook, *available at* <https://www.facebook.com/business/help/164749007013531?id=401668390442328> (last accessed Aug. 1, 2023).

<sup>35</sup> *See* Create a customer list custom audience, Facebook, *available at* <https://www.facebook.com/business/help/170456843145568?id=2469097953376494> (last accessed Aug. 1, 2023); Create a website custom audience, Facebook, *available at* <https://www.facebook.com/business/help/1474662202748341?id=2469097953376494> (last accessed Aug. 1, 2023).

<sup>36</sup> The Meta Business Tools, Facebook, *available at* <https://www.facebook.com/help/331509497253087> (last accessed Aug. 1, 2023).

1 their platforms, thereby enabling Meta to intercept and collect user activity on those  
2 platforms, and they are automatically configured to capture certain data.<sup>37</sup>

3 68. Meta's Business Tools can also track other events. Meta offers a menu  
4 of "standard events" from which advertisers can choose from, including what content  
5 a visitor views or purchases.<sup>38</sup> Advertisers can even create their own tracking  
6 parameters by building a "custom event."<sup>39</sup>

7 69. One such Meta Business Tool advertisers, including Planned  
8 Parenthood, integrate into their platforms is the Meta Pixel, formerly known as the  
9 Facebook Pixel, which launched in 2015. The Meta Pixel "tracks the people and the  
10 types of actions they take,"<sup>40</sup> and Meta touted the Meta Pixel as a new way to report  
11 and optimize for conversions, build audiences and get rich insights about how people  
12 use websites.

13 70. When a user accesses a website hosting the Meta Pixel, Meta's software  
14 script surreptitiously directs the user's browser to contemporaneously send a separate  
15 message to Meta's servers. This second secret and contemporaneous transmission  
16 contains the original GET request sent to the host website, along with additional data  
17 that the Meta Pixel is configured to collect.

18 71. This transmission is initiated by Meta code, written in JavaScript, and  
19 concurrent with communications with the host website. At relevant times, two sets of

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20 <sup>37</sup> See Advanced, Meta for Developers, *available at* <https://developers.facebook.com/docs/meta-pixel/advanced/> (last accessed Aug. 1, 2023); *see also* Best practices for  
21 Meta Pixel setup, Facebook, *available at* <https://www.facebook.com/business/help/218844828315224?id=1205376682832142> (last accessed Aug. 1, 2023); App Events  
22 API, Meta for Developers, *available at* <https://developers.facebook.com/docs/marketing-api/app-event-api/> (last accessed Aug. 1, 2023).

23 <sup>38</sup> Specifications for Meta Pixel standard events, Facebook, *available at*  
24 <https://www.facebook.com/business/help/402791146561655?id=1205376682832142>  
25 (last accessed Aug. 1, 2023).

26 <sup>39</sup> About standard and custom website events, Facebook, *available at*  
27 <https://www.facebook.com/business/help/964258670337005?id=1205376682832142>  
28 (last accessed Aug. 1, 2023); *see also* App Events API, *supra* footnote 37.

<sup>40</sup> Retargeting, Facebook, *available at* <https://www.facebook.com/business/goals/retargeting> (last accessed Aug. 1, 2023).

1 code are thus automatically run as part of the browser's attempt to load and read  
2 websites: the host website's own code and Meta's embedded code.

3 72. Take, for example, an individual who navigates to the Website and clicks  
4 on a link for emergency contraception information. When that link is clicked, the  
5 Website user's browser sends a GET request to Planned Parenthood's server  
6 requesting that server to load the particular webpage, and as a result of Planned  
7 Parenthood's use of the Meta Pixel, also sends secret instructions back to the  
8 individual's browser without alerting the individual that this was happening. Meta's  
9 tracking code caused the browser to secretly duplicate the communication with  
10 Planned Parenthood, transmitting it to Meta's servers alongside additional  
11 information that transcribed the communication's content and the Website user's  
12 identity.

13 73. Taken together, Meta uses the information that Planned Parenthood  
14 unlawfully discloses to it in order to identify a specific person and their actions and  
15 communications on the Website. Meta, like the other Third Parties, uses this  
16 information for advertising, analytics and other purposes.

17 74. After collecting and intercepting the information described in the  
18 preceding paragraph, Meta processes it, analyzes it and assimilates it into datasets  
19 like Core Audiences and Custom Audiences.

20 75. Planned Parenthood, without its Website users ever communicating  
21 their FID on the Website, also discloses its Website's users' FID to Meta as a result of  
22 the Meta Pixel embedded on its Website. An FID, which is also a form of PII, is a  
23 unique and persistent identifier that Meta assigns to each of its users. With it, any  
24 ordinary person can look up the user's Facebook profile and name. Notably, while  
25 Meta can easily identify any individual on its Facebook platform with only their  
26  
27  
28



1 unique FID, so too can any ordinary person.<sup>41</sup> If a Website user has an FID, the Meta  
2 Pixel was specifically designed for Meta to receive that Website user's FID from  
3 Planned Parenthood alongside other information when the user otherwise  
4 communicates on the Website and discloses personal and private information.

5 76. Importantly, if Meta Pixel collects data, from Planned Parenthood or  
6 other websites, about a non-Facebook user, Meta still retains and uses the data  
7 collected in its analytics and advertising services. These non-users are referred to as  
8 having "shadow profiles."<sup>42</sup>

9 77. Therefore, the Meta Pixel embedded on the Website unlawfully collects  
10 data from the communications of *all* users on the Website, not just those with  
11 Facebook profiles. However, if a Website user has a Facebook profile, Meta is able to  
12 utilize the user's information in more ways, especially if the user does not log out of  
13 their Facebook account on the browser they access and use the Website on.

14 78. Still, regardless of whether a Planned Parenthood Website user has a  
15 Facebook profile or has ever even visited the Facebook or Meta websites, the Meta  
16 Pixel Planned Parenthood has embedded on its website unlawfully discloses  
17 communications from *all* of Planned Parenthood's Website users on its Website done  
18 via web browsers to Meta. This information includes private and personal healthcare  
19 information and other sensitive PII that allows Meta to identify the Website users and  
20 connect them and their communications with other information.

21 79. In addition to using the intercepted data to provide analytics services,  
22 Meta uses it to improve its personalized content delivery, advertising network,  
23 machine-learning algorithms and its ability to identify and target users.

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24 <sup>41</sup> See, e.g., How usernames and user IDs are used on Facebook Profiles, Facebook,  
25 available at <https://www.facebook.com/help/211813265517027#> (last accessed Aug. 1,  
26 2023).

27 <sup>42</sup> Butler, Sydney, *What are Facebook Shadow Profiles, and Should You Be Worried?*,  
28 How-To Geek, Dec. 10, 2021, available at <https://www.howtogeek.com/768652/what-are-facebook-shadow-profiles-and-should-you-be-worried/> (last accessed Aug. 1,  
2023).



80. Planned Parenthood knowingly and intentionally uses the Meta Pixel and tracking technology on its Website. As a result, Planned Parenthood unlawfully discloses, due to a lack of obtained consent, and aids in Meta's interception of Planned Parenthood's Website users' communications on its Website, which includes private and personal health information and other sensitive PII. The effect of Planned Parenthood's actions is that Meta is able to identify each specific individual Planned Parenthood Website user and access the information they provide on the Website.

**b. Google**

81. Planned Parenthood also is unlawfully disclosing, due to a lack of obtained consent, to Google its Website users' private and personal health information and other PII. This information reveals each Website user's specific identity that Google then uses for advertising, analytics and other purposes.

82. Google is one of the most valuable publicly traded companies in the world with a market capitalization of over \$1.5 trillion dollars.<sup>43</sup> At its core, Google is an advertising company and "make[s] money" from "advertising products [that] deliver relevant ads at just the right time," generating "revenues primarily by delivering both performance advertising and brand advertising."<sup>44</sup> In 2020, Google generated \$146.9 billion in advertising revenue, which amounted to more than 80 percent of Google's total revenues for the year.<sup>45</sup>

83. The Website sends users' private and personal health information and other sensitive PII that identifies each specific Website user to Google using Google Analytics, a web analytics service that allows website owners to track site visitors'

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<sup>43</sup> Alphabet Inc. (GOOG), Yahoo! Finance, *available at* <https://finance.yahoo.com/quote/GOOG/> (last accessed Aug. 1, 2023).

<sup>44</sup> Alphabet Inc. Annual Report Form 10-K, United States Securities and Exchange Commission, *available at* <https://www.sec.gov/Archives/edgar/data/1652044/000165204421000010/goog20201231.htm> (last accessed Aug. 1, 2023).

<sup>45</sup> *See* Advertising revenue of Google from 2001 to 2022, Statista, *available at* <https://www.statista.com/statistics/266249/advertising-revenue-of-google/> (last accessed Aug. 1, 2023).

1 actions through tracking pixels and other technology in order to target such visitors  
2 with personalized advertisements.

3 84. Google touts Google Analytics as a marketing platform that offers “a  
4 complete understanding of your customers across devices and platforms...”<sup>46</sup> It allows  
5 companies and advertisers that utilize it the ability to “[u]nderstand how your  
6 customers interact across your sites and apps, throughout their entire lifestyle,”  
7 “[u]ncover new insights and anticipate future customer actions with Google’s machine  
8 learning to get more value out of your data,” “[t]ake action to optimize marketing  
9 performance with integrations across Google’s advertising and publisher tools” and  
10 “[q]uickly analyze your data and collaborate with an easy-to-use interface and  
11 shareable reports.”<sup>47</sup>

12 85. Google Analytics is incorporated into Planned Parenthood’s website by  
13 addition of small pieces of JavaScript measurement. This code immediately intercepts  
14 a user’s interaction with the webpage every time the user visits it.

15 86. Google Analytics also collects the IP addresses of individual Internet  
16 users in order to facilitate and track Internet communications.

17 87. Taken together, Google can use the information that Planned  
18 Parenthood unlawfully discloses to it in order to identify a specific Website user’s  
19 actions and communications on the Website.

20 88. Regardless of whether a Planned Parenthood Website user has a Google  
21 account or has ever even visited the Google website, the Google tracking codes Planned  
22 Parenthood has embedded on its Website unlawfully disclose communications from  
23 *all* of Planned Parenthood’s Website users on its Website done via web browsers to  
24 Google. This information includes private and personal healthcare information and  
25

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26  
27 <sup>46</sup> Marketing Platform Analytics, Google, *available at* <https://marketingplatform.google.com/about/analytics/> (last accessed Aug. 1, 2023).

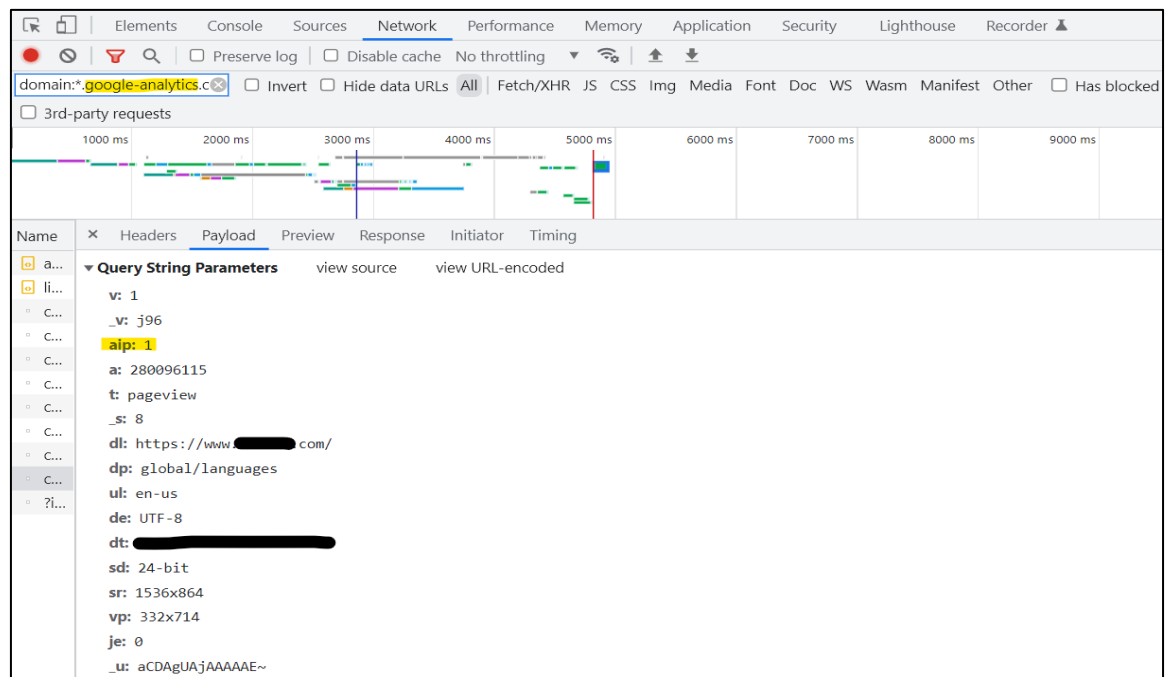
28 <sup>47</sup> *Id.*

other sensitive PII that allows Google to identify the Website users and connect them and their communications with other information.

89. Google Analytics offers website owners an opt-in IP anonymization feature. This feature is designed to help website owners comply with their own privacy policies and the recommendations of data protection authorities.

90. If the IP anonymization feature is enabled by the website owner, an additional parameter is added to the communication between website visitors' computers and the Google Analytics server, defined as `aip: 1` and depicted below.

48



91. Accordingly, when the “aip” parameter does not appear, the IP address is not anonymized, thus enabling Google to identify website users’ IP addresses and their online actions.

92. Planned Parenthood does not enable the IP anonymization feature on its Website. This is demonstrated by the absence of the “aip” parameter in the Website’s

<sup>48</sup> Screenshot taken on May 18-19, 2023 via Chrome web browser.

code. As a result, Google can identify each Planned Parenthood Website user's identity and their specific communications on the Website.

49

```
Host: www.google-analytics.com
Path: /collect

PARAMETERS
  z: 1684399436906
  v: 1
  tid: UA-8867852-25
  cid: 1684399436906 832
  t: event
  dp: /abortion-access
  dh: www.plannedparenthood.org
  dl: https://www.plannedparenthood.org/abortion-access?age=22&location=Los%20Angeles%2C%20CA%2090001&noDate=null&month=04&day=26&year=2023&entryForm=hc%20search%20results
  pa: purchase
  ta: www.plannedparenthood.org
  ec: gtm_monitor
  ea: hc card click book online
  ti: 1684399436906
  el: 1684399421607;911;false;GA1.2.318740178.1684307308
  prlid: 2152
  pr1nm: UA - Event - ASL - HC Book Online
  pr1va: success
```

93. Once Google's code collects the data, it packages the information and sends it to Google Analytics for processing. Google Analytics also allows the company to customize the processing of the data, such as applying filters. Once the data is processed, it is stored on a Google Analytics' database and cannot be changed.

94. Google then uses this data to generate reports for Planned Parenthood to help analyze the data. These include reports on acquisition (e.g., information about where your traffic originates, the methods by which users arrive at your platform and the marketing efforts you use to drive traffic), engagement (e.g., measure user engagement by the events and conversion events that users trigger and the web pages and application screens that users visit) and demographics (e.g., classify your users by age, location, language and gender along with interests they express through their online browsing and purchase activities).

<sup>49</sup> Screenshot taken on May 18-19, 2023 via Chrome web browser.

1           95. In addition to using the data collected through Google Analytics to  
2 provide marketing and analytics services, Planned Parenthood also uses the data to  
3 improve its advertisement targeting capabilities and data points on users and  
4 consumers.

5           96. Planned Parenthood is also unlawfully disclosing and sharing  
6 information with DoubleClick, a “Google Ads” conversion tracking product.

7           97. When a user visits a website or interacts with an application that  
8 displays Google Ads, Google’s advertising platform, their browser sends a request to  
9 googleads.g.doublock.net to fetch the advertising content. This domain handles the  
10 advertising serving infrastructure, including tracking impressions, clicks and  
11 conversions.

12           98. Planned Parenthood knowingly and intentionally uses Google’s tracking  
13 pixels and other technology on its Website via Google Analytics and DoubleClick. As  
14 a result, Planned Parenthood unlawfully discloses, due to a lack of obtained consent,  
15 and aids in Google’s unlawful interception of Planned Parenthood’s Website users’  
16 communications on its Website, which includes private and personal health  
17 information and other sensitive PII. The effect is that Google is able to identify each  
18 specific individual Planned Parenthood Website user and access the information they  
19 provide on the Website.

20           **c. Microsoft**

21           99. Planned Parenthood also is unlawfully disclosing, due to a lack of  
22 obtained consent, to Microsoft its Website users’ private and personal health  
23 information and other PII. This information reveals each Website user’s specific  
24 identity that Microsoft then uses for advertising, analytics and other purposes.

25           100. Planned Parenthood is unlawfully sharing information with Microsoft  
26 through bat.bing.com (“Bing Ads”), which is a domain owned and operated by  
27 Microsoft and used for tracking and analytics purposes, and which is used on the  
28 Website.

1           101. When a website user interacts with Bing Ads, which is also known as  
2 Microsoft Ads and is Microsoft's advertising platform, Bing Ads is responsible for  
3 collecting certain information and setting cookies on the website user's browsers.

4           102. These cookies help track and analyze website user behavior, measure the  
5 effectiveness of advertising campaigns and provide relevant advertisements based on  
6 the website user's interests and browsing history.

7           103. Regardless of whether a Planned Parenthood Website user has a  
8 Microsoft account or has ever even visited the Microsoft website, the Microsoft  
9 tracking codes Planned Parenthood has embedded on its Website unlawfully disclose  
10 communications from *all* of Planned Parenthood's Website users on its Website done  
11 via web browsers to Microsoft. This information includes private and personal  
12 healthcare information and other sensitive PII that allows Microsoft to identify the  
13 Website users and connect them and their communications with other information.

14           104. Planned Parenthood knowingly and intentionally uses Microsoft's code  
15 on its Website. As a result, Planned Parenthood unlawfully discloses, due to a lack of  
16 obtained consent, and aids in Microsoft's unlawful interception of Planned  
17 Parenthood's Website users' communications on its Website, which includes private  
18 and personal health information and other sensitive PII. The effect is that Microsoft  
19 is able to identify each specific individual Planned Parenthood Website user and  
20 access the information they provide on the Website.

21           **d. Yahoo**

22           105. Planned Parenthood is also unlawfully disclosing, due to a lack of  
23 obtained consent, to Yahoo its Website users' private and personal health information  
24 and other PII. This information reveals each Website user's specific identity that  
25 Yahoo then uses for advertising, analytics and other purposes.

26           106. The Website sends its users' private and personal sexual and  
27 reproductive health information and other sensitive PII to Yahoo using Yahoo  
28 Analytics, which Planned Parenthood has embedded into its Website.

1           107. Yahoo Analytics enables website owners to track various metrics, such  
2 as page views, unique visitors, bounce rates and conversion rates.

3           108. Yahoo Analytics uses a variety of tools, including “IP addresses, web  
4 beacons, SDKs, cookies, and similar technologies to recognize, associate, and collect  
5 data about visitors to Yahoo’s and our customer’s sites, apps, products, brands and  
6 services.”<sup>50</sup>

7           109. Regardless of whether a Planned Parenthood Website user has a Yahoo  
8 account or has ever even visited the Yahoo website, the Yahoo tracking codes Planned  
9 Parenthood has embedded on its Website unlawfully disclose communications from  
10 *all* of Planned Parenthood’s Website users on its Website done via web browsers to  
11 Yahoo. This information includes private and personal healthcare information and  
12 other sensitive PII that allows Yahoo to identify the Website users and connect them  
13 and their communications with other information.

14           110. Taken together, Yahoo uses the information that Planned Parenthood  
15 unlawfully discloses to it in order to identify a specific Website user and their actions  
16 and communications on the Website.

17           111. Planned Parenthood knowingly and intentionally uses Yahoo’s code on  
18 its Website. As a result, Planned Parenthood unlawfully discloses, due to a lack of  
19 obtained consent, and aids in Yahoo’s unlawful interception of Planned Parenthood’s  
20 Website users’ communications on its Website, which includes private and personal  
21 health information and other sensitive PII. The effect is that Yahoo is able to identify  
22 each specific individual Planned Parenthood Website user and access the information  
23 they provide on the Website.

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<sup>50</sup> Privacy Center – Yahoo Analytics, Yahoo!, *available at* <https://legal.yahoo.com/us/en/yahoo/privacy/topics/analytics/index.html> (last accessed Aug. 1, 2023).



**V. Planned Parenthood Unlawfully Disclosed Plaintiffs' and Class Members' Private and Personal Sexual and Reproductive Health Information and Other Sensitive PII to the Third Parties and Assisted the Third Parties with the Unlawful Interception of Communications Containing Such Information**

**a. Illustration of How Planned Parenthood Unlawfully Discloses and Aids in the Interception of Plaintiffs' and Class Members' Private and Protected Personal Information**

112. Upon entering the Website's homepage, Website users are able to search for a Planned Parenthood health center by location and service, and they can filter results by telehealth and/or in-person appointments.

51



113. Depending on what service the Website users select, they may be required to provide additional information. For example, when a Planned Parenthood Website user specifically searches for abortion services, they encounter an additional requirement. In order to proceed, they are prompted to provide their age and the first day of their last menstrual period.

<sup>51</sup> Screenshot taken on May 18-19, 2023 via Chrome web browser.



Planned Parenthood

LEARN ▾ GET CARE ▾ GET INVOLVED ▾ DONATE SEARCH

your own. Make an in-person or telehealth appointment online or call [1-800-230-PLAN](tel:1-800-230-PLAN).

### Find a Health Center

ZIP, CITY, OR STATE

90001

SERVICE

Abortion ▾

Please enter your age and the first day of your last period for more accurate abortion options. Your information is private and anonymous.

FIRST DAY OF YOUR LAST PERIOD

AGE

☐ I'm not sure

FIND ABORTION PROVIDER

114. Once Website users submit their information in the above described scenario for abortion services (or for whatever other treatment they may be seeking), the information is automatically and simultaneously sent directly to all of the Third Parties, as evidenced in the below six screenshots. Specifically, Planned Parenthood transmitted the following information during this process involving communications with a Website user: that the user searched for an abortion clinic around zip code 90001, that she is 22 years old and that the first day of her last period was on April 26, 2023. It even estimated how far along the user was in her pregnancy. Importantly, it also communicated various PII in this scenario, including, but not limited to, the person's IP address and FID.

<sup>52</sup> Screenshot taken on May 18-19, 2023 via Chrome web browser.

53

Planned Parenthood

LEARN ▼ GET CARE ▼ GET INVOLVED ▼ DONATE Q SEARCH

## Abortion Clinics Near You

View Planned Parenthood health centers that provide abortion care and get the information you need to schedule an appointment.

AGE: 22 ZIP, CITY OR STATE: 90001 FIRST DAY OF YOUR LAST PERIOD: 04/26/2023

☐ I'm not sure

RESUBMIT

Your information is private and anonymous.

Available centers only All Health Centers

**You are about 3 weeks and 1 day pregnant.**

California allows abortion until about 24 weeks into pregnancy or later, in some cases. Abortion options at your stage generally include:

54

URL

+ https://www.facebook.com/tr/?id=433242851216452&ev=PageView&dl=https%3A%2F%2Fwww.plannedparenthood.org%2F&rl=https%3A%2F%2Fwww.plannedparenthood.org%2F-abortion-access%3Fage%3D22%26month%3D4%26day%3D26%26year%3D2023%26location%3D90001%26entryForm%3D&if=fa&se&ts=1684408567881&sw=1920&sn=1080&v=2.9.104&r=stable&ec=0&o=2&fbp=fb.1.1684307320145.687633086&it=1684408567830&coo=false&dpo=6tm=1&rqm=GET

HEADERS

+ accept: image/avif,image/webp,image/apng,image/svg+xml,image/\*,\*/\*;q=0.8

+ accept-encoding: gzip, deflate, br

+ accept-language: en-US,en;q=0.9

+ connection: keep-alive

+ cookie: sb=k0BlZJeVAFdU7pQ1e950-s62; datr=k0BlZPmhpe-kqAnemdQf6j70; locale=en\_US; dpr=1; c\_user=1211[redacted]xs=26%3A-2evcb-0dm\_p-A%3A2%3A1684399194%3A-1%3A15165; fr=0i6WZZzQyQckUb07J.AWUd63xxrIjdt3l0sZKNud0VDCY.BkZeCQ.wn.AAA.0.0.BkZeRc.AWUzh4HGWbA

+ host: www.facebook.com

+ referer: https://www.plannedparenthood.org/

sec-ch-ua: "Google Chrome";v="113", "Chromium";v="113", "Not-A.Brand";v="24"

sec-ch-ua-mobile: ?0

sec-ch-ua-platform: "Windows"

<sup>53</sup> Screenshot taken on May 18-19, 2023 via Chrome web browser.

<sup>54</sup> Screenshot taken on May 18-19, 2023 via Chrome web browser.

55

URL

+ https://www.google-analytics.com/collect?z=1684399436906&v=1&t=d-UA-8867852-25&cid=1684399436906%20&32t=event&dp=%2F-abortion-access&dwh=www.plannedparenthood.org&dl=https%3A%2F%2Fwww.plannedparenthood.org%2F-abortion-access%3Fage%3D22%26location%3DLos%2520Angles%252C%2526CA%2520900001%26noDate%3Dnull%26month%3D04%26day%3D26%26year%3D2023%26entryForm%3Dhc%2520search%2520results&p=purchase&sitea=www.plannedparenthood.org&sc=gtm\_monitor&ea=hc%20card%20click%20book%20online&ti=1684399436906&el=1684399421607;911;false;GA1.2.318740178.1684307308&pr1id=2152&pr1nm=UA%20-%20Event%20-%20ASL%20-%20HC%20Book%20Online&pr1va=success&pr1ca=hc%20card%20click%20book%20online&pr1br=%2F-abortion-access&pr1qt=1&pr1pr=6.00&pr2id=2507&pr2nm=unnamed%20tag%20with%20ID%3A%202507&pr2va=success&pr2ca=hc%20card%20click%20book%20online&pr2br=%2F-abortion-access&pr2qt=1&pr2pr=85.00&pr3id=2274&pr3nm=unnamed%20tag%20with%20ID%3A%202274&pr3va=success&pr3ca=hc%20card%20click%20book%20online&pr3br=%2F-abortion-access&pr3qt=1&pr3pr=2.00&tr=3.00&ev=3

## HEADERS

```
+ accept: image/avif,image/webp,image/apng,image/svg+xml,image/*,*/*;q=0.8
+ accept-encoding: gzip, deflate, br
+ accept-language: en-US,en;q=0.9
+ connection: keep-alive
+ host: www.google-analytics.com
+ referer: https://www.plannedparenthood.org/
  sec-ch-ua: "Google Chrome";v="113",
  "Chromium";v="113", "Not-A.Brand";v="24"
```

56

+ https://[googleads.g.doubleclick]net/pagead/viewthroughconversion/644728173/?random=16844085658606cv=116fst=16844085658606bg=fffff8guid=0N8async=18gtm=45He35a08u\_w=19208u\_h=10808url=https%3A%2F%2Fwww.plannedparenthood.org%2F26month%3D4%26day%3D26%26year%3D2023%26location%3D90001%26entryForm%3Dnbn=www.googleadservices.com&frm=0&tiba=Planned%20Parenthood%20%7C%20Official%20Site&uid=524117785.1684307308&uaa=x86&uab=64&uafvl=Google%2520Chrome%3B113.0.5672.127%7CChromium%3B113.0.5672.127%7CNot-A.Brand%3B24.0.0.0&uamb=0&uap=Windows&uapv=15.0.0&uaw=0&fnt=3&fnt=4

## HEADERS

```
+ accept: */*
+ accept-encoding: gzip, deflate, br
+ accept-language: en-US,en;q=0.9
+ connection: keep-alive
+ cookie: IDE=AHWqTUnrxWMmpcMobMYKo8kicuEic2cijc1tJWx
tMSqLU80Sz8vDpALRINassz06gqU
+ host: googleads.g.doubleclick.net
+ referer: https://www.plannedparenthood.org/
sec-ch-ua: "Google Chrome";v="113",
"Chromium";v="113", "Not-A.Brand";v="24"
sec-ch-ua-mobile: ?0
sec-ch-ua-
platform: Windows"
```

<sup>55</sup> Screenshot taken on May 18-19, 2023 via Chrome web browser.

<sup>56</sup> Screenshot taken on May 18-19, 2023 via Chrome web browser.



57

```
+ https://bat.bing.com/action/0?ti=50616998tm=gtm002&Ver=2&mid=4e8c989b-1368-4523-86fb-911c286744d1&sid=a07d7840f48111eda413b5a45a
aa7bb1&vid=a07d88a0f48111eda8fe034b7465f171&vids=0&msclkid=N&uach
=pv%3D15.0.0&pi=918639831&lg=en-US&sw=1920&sh=1080&sc=24&tl=Plann
ed%20Parenthood%20%7C%20Official%20Site&p=https%3A%2F%2Fwww.plann
edparenthood.org%2F&r=https%3A%2F%2Fwww.plannedparenthood.org%2Fabo
rtion-access%3Fage%3D22%26month%3D4%26day%3D26%26year%3D2023%26
location%3D90001%26entryForm%3D&lt=519&evt=pageLoad&sv=1&rn=37066
```

## HEADERS

```
+ accept: image/avif,image/webp,image/apng,image/svg+xml,image/*,*/*;q=0.8
+ accept-encoding: gzip, deflate, br
+ accept-language: en-US,en;q=0.9
+ connection: keep-alive
+ cookie: MUID=341FB0B564746B1B1D98A3A165F06A68; MR=0
+ host: bat.bing.com
+ referer: https://www.plannedparenthood.org/
  sec-ch-ua: "Google Chrome";v="113",
  "Chromium";v="113", "Not-A.Brand";v="24"
  sec-ch-ua-mobile: ?0
  sec-ch-ua- "Windows"
```

58

```
+ https://sp.analytics.yahoo.com/sp.pl?a=10000&d=Thu%2C%2018%20Ma
y%202023%2011%3A16%3A06%20GMT&n=-3d&b=Planned%20Parenthood%20%7C%
20Official%20Site&.yp=10095773&f=https%3A%2F%2Fwww.plannedparenth
ood.org%2F&e=https%3A%2F%2Fwww.plannedparenthood.org%2F-abortion-a
ccess%3Fage%3D22%26month%3D4%26day%3D26%26year%3D2023%26location%
3D90001%26entryForm%3D&enc=UTF-8&yv=1.14.0&tagmgr=gtm
```

## HEADERS

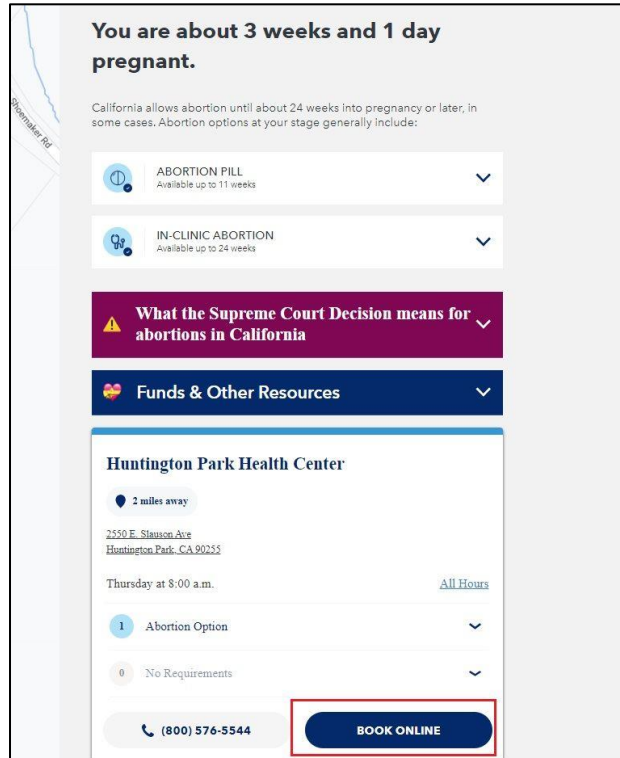
```
+ accept: image/avif,image/webp,image/apng,image/svg+xml,image/*,*/*;q=0.8
+ accept-encoding: gzip, deflate, br
+ accept-language: en-US,en;q=0.9
+ connection: keep-alive
+ cookie: A3=d=AQABBJ9ZGQCEJ1vjeo203iNX6oQ4VI4-5gFEgEBAQH0ZWRuZnNr0iMA_eMAAA&S=AQAAAKBCNiISKJMTZrsC3djXl_c; IDSYNC=1769~2bov
+ host: sp.analytics.yahoo.com
+ referer: https://www.plannedparenthood.org/
  sec-ch-ua: "Google Chrome";v="113",
  "Chromium";v="113", "Not-A.Brand";v="24"
  sec-ch-ua-mobile: ?0
  sec-ch-ua- "Windows"
```

<sup>57</sup> Screenshot taken on May 18-19, 2023 via Chrome web browser.

<sup>58</sup> Screenshot taken on May 18-19, 2023 via Chrome web browser.

115. After submitting their information, regardless of the service they select, Website users are directed to the search results page, where they can choose a clinic and book an appointment. This information, along with PII, is shared with at least Google once a user clicks the “book online” button.

59



60

```

- https://www.google-analytics.com/collect?z=1684313280128&v=1&ti
d=UA-8867852-25&cid=1684313280128%20291&t=event&dp=%2Fabortion-ac
cess&dh=www.plannedparenthood.org&dl=https%3A%2F%2Fwww.plannedpar
enthood.org%2Fabortion-access%3Fage%3D22%26month%3D4%26day%3D26%2
6year%3D2023%26location%3DLos%2520Angeles%2520CA%252090001%2
6entryForm%3D&pa=purchase&ta=www.plannedparenthood.org&ec=gtm_mon
itor&ea=hc%20card%20click%20book%20online&ti=1684313280128&el=168
4313264401;753;false;GA1.2.318740178.1684307308&pr1id=2152&pr1nm=
UA%20-%20Event%20-%20ASL%20-%20HC%20Book%20Online&pr1va=success&p
r1ca=hc%20card%20click%20book%20online&pr1br=%2Fabortion-access&p
r1qt=1&pr1pr=5.00&pr2id=2507&pr2nm=unnamed%20tag%20with%20ID%3A%2
02507&pr2va=success&pr2ca=hc%20card%20click%20book%20online&pr2br
=%2Fabortion-access&pr2qt=1&pr2pr=80.00&pr3id=2274&pr3nm=unnamed%
20tag%20with%20ID%3A%202274&pr3va=success&pr3ca=hc%20card%20cli
k%20book%20online&pr3br=%2Fabortion-access&pr3qt=1&pr3pr=1.00&tr=
3.00&dev=3

```

<sup>59</sup> Screenshot taken on May 18-19, 2023 via Chrome web browser.

<sup>60</sup> Screenshot taken on May 18-19, 2023 via Chrome web browser.

1           116. Plaintiffs never consented, agreed, authorized or otherwise permitted  
2 Planned Parenthood to disclose their private and personal sexual and reproductive  
3 health information and other sensitive PII that they communicated to Planned  
4 Parenthood on a web browser via the Website. This information allows the Third  
5 Parties to identify each specific individual Planned Parenthood Website user and  
6 access the communications they provide.

7           117. Plaintiffs were never provided any full and proper written notice that  
8 Planned Parenthood disclosed their protected sexual and reproductive health  
9 information and other sensitive PII that revealed their identity when they used the  
10 Website, nor were they provided any means of opting out of all such disclosures.  
11 Planned Parenthood nonetheless knowingly and intentionally disclosed Plaintiffs'  
12 private and personal sexual and reproductive health information and other sensitive  
13 PII to the Third Parties.

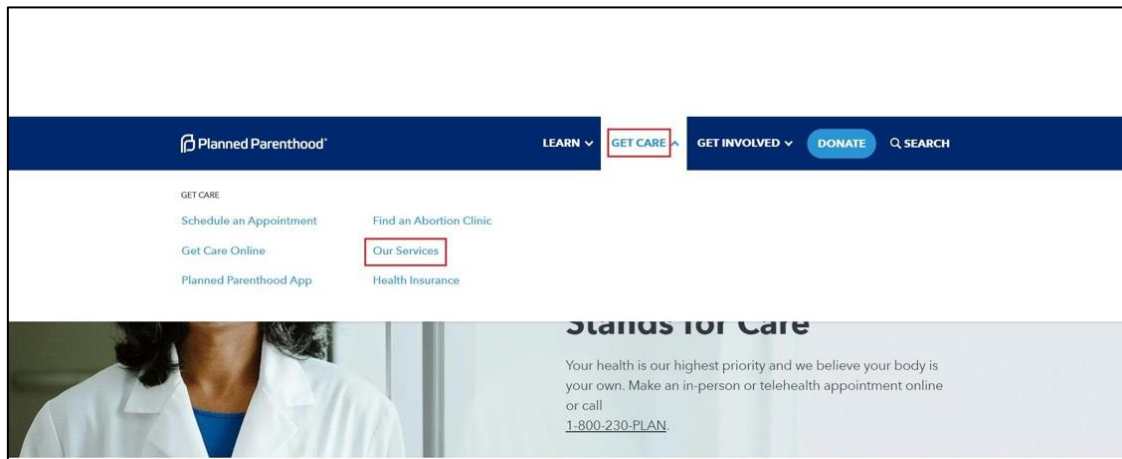
14           118. By law, Plaintiffs are entitled to privacy in their private and personal  
15 sexual and reproductive health information and confidential communications.  
16 Planned Parenthood deprived Plaintiffs and other members of the Class of their  
17 privacy rights when it:

- 18           (1) implemented a system that surreptitiously tracked, recorded  
19           and disclosed Plaintiffs' and other Website users' confidential  
20           interactions, communications, protected health information  
21           and other sensitive PII via the Website;
- 22           (2) disclosed Website users' protected health information and other  
23           sensitive PII communicated on the Website to numerous Third  
24           Parties, who are all unauthorized eavesdroppers; and
- 25           (3) undertook this pattern of conduct without notifying Plaintiffs  
26           and other Website users and without obtaining their express  
27           written consent. Plaintiffs did not discover that Planned  
28           Parenthood disclosed and assisted the Third Parties in  
              intercepting their private and personal health information and  
              other sensitive PII until July 2023.

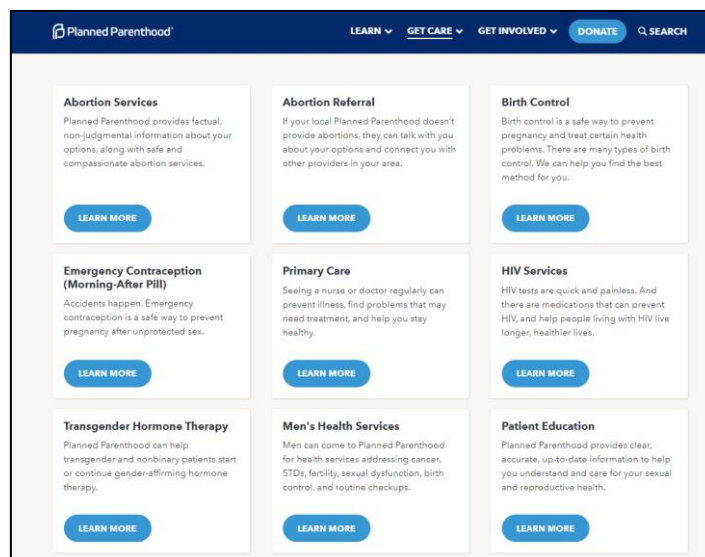
**b. Illustration of the Types of Information Planned Parenthood Unlawfully Discloses and Aids Third Parties to Intercept**

119. Planned Parenthood offers Website users a variety of Women's Services and Men's Services, and users may hover over the "get care" tab on the Website's homepage and choose the "our services" button to see the various services offered. Once the Website users are presented with a list of the Planned Parenthood services offered to them, they can also click the "learn more" tab to learn more about each service offered on the Website by Planned Parenthood.

61



62



<sup>61</sup> Screenshot taken on May 18-19, 2023 via Chrome web browser.

<sup>62</sup> Screenshot taken on May 18-19, 2023 via Chrome web browser.



120. Upon selecting a service to “learn more” about, the chosen service’s name is shared with multiple third parties, explicitly revealing in this illustration that the Website user clicked on, and wanted to learn more about, “transgender hormone therapy.” Additionally, and at the same time, the user’s PII was disclosed to the Third Parties, including their IP address and FID.

63

64

```
+ https://www.facebook.com/tr/?id=433242851216452&ev=PageView&dl=
https%3A%2F%2Fwww.plannedparenthood.org%2Fget-care%2Four-service
s%2Ftransgender-hormone-therapy&tl=https%3A%2F%2Fwww.plannedparen
thood.org%2Fget-care%2Four-services&if=false&ts=1684422320781&sw=
1920&sh=1080&v=2.9.104&r=stable&ec=0&eo=29&fbp=fb.1.1684307320145.
6876330866it=1684422320573&coo=false&dpo=6tm=1&rqm=GET

HEADERS
+ accept: image/avif,image/webp,image/apng,image/svg+
xml,image/*,*/*;q=0.8
+ accept-encoding: gzip, deflate, br
+ accept-language: en-US,en;q=0.9
+ connection: keep-alive
+ cookie: sb=k0BLZJeVAFdU7pQ1e95Q-s62;
datr=k0BLZPmhpe-kqAnemdQf6i70;
locale=en_US; dpr=1; c_user=1212[redacted]
xs=26%3A-2evcb-0dm_p-A%3A2%3A1684399194%3A-
1%3A15165;
fr=0i6WZZzQyQCKUb07J.AWUd63xxrIjdt3l0sZKNUd
0VDCY.BkZeCQ.wn.AAA.0.0.BkZeRc.AWUzh4HGWBa
www.facebook.com
+ host: www.facebook.com
+ referer: https://www.plannedparenthood.org/
sec-ch-ua: "Google Chrome";v="113",
"Chromium";v="113", "Not-A.Brand";v="24"
```

63 Screenshot taken on May 18-19, 2023 via Chrome web browser.

64 Screenshot taken on May 18-19, 2023 via Chrome web browser.



```

+ https://googleads.g.doubleclick.net/pagead/viewthroughconversion/952276156/?random=16844
22471046&cv=11&fst=1684422471046&bg=ffffff&guid=ON&async=1&gtm=45He35a0&u_w=1920&u_h=1080&
url=https%3A%2F%2Fwww.plannedparenthood.org%2Fget-care%2Four-services%2Ftransgender-hormon
e-therapy&ref=https%3A%2F%2Fwww.plannedparenthood.org%2Fget-care%2Four-services&utm_source=www.goo
gleadservices.com&frm=0&tiba=LGBT%20Services%20%7C%20Education%2C%20Support%20%26%20Healt
h%20Services&aid=524117785.1684307308&uaa=x86&uab=64&uafvl=Google%2520Chrome%3B113.0.567
2.127%7CChromium%3B113.0.5672.127%7CNot-A.Brand%3B24.0.0&uamb=0&uap=Windows&uapv=15.0.0&
uaw=0&rfmt=3&fmt=4

HEADERS
+ accept: */*
+ accept-encoding: gzip, deflate, br
+ accept-language: en-US,en;q=0.9
+ connection: keep-alive
+ cookie: IDE=AHWqTUNrxWMmpcMobMYKo8kicuEic2cijc1tJWxtMSqL8U0Sz8vDpALRINassz06
gqU
+ host: googleads.g.doubleclick.net
+ referer: https://www.plannedparenthood.org/
  sec-ch-ua: "Google Chrome";v="113", "Chromium";v="113", "Not-A.Brand";v="24"
  sec-ch-ua-mobile: ?0
  sec-ch-ua-platform: "Windows"
+ sec-fetch-dest: script

```

121. Additionally, the “transgender hormone therapy” page, as well as the pages for other services, enables Website users to explore Planned Parenthood clinics that offer the service within their desired zip code and schedule appointments. When a user clicks the “search” button, both their search location and their request for an appointment regarding LGBT services are shared with some third parties, including, but not limited to, Google. PII that reveals the Website user’s individual identity is also disclosed simultaneously.

<sup>65</sup> Screenshot taken on May 18-19, 2023 via Chrome web browser.

<sup>66</sup> Screenshot taken on May 18-19, 2023 via Chrome web browser.

**Book an Appointment**

ZIP, CITY, OR STATE

Los Angeles, CA 90001

SERVICE

Transgender Hormone Therapy

FILTER BY

☒ All ☐ Telehealth ☐ In-person

**SEARCH**

Or call [1-800-230-7526](tel:1-800-230-7526)

67

```
+ https://www.google-analytics.com/collect?z=1684424663266&v=1&tid=UA-8867852-25&cid=1684424663266%20249&dt=event&dp=%2Fhealth-center&dh=www.plannedparenthood.org&dl=https%3A%2F%2Fwww.plannedparenthood.org%2Fhealth-center%3Flocation%3DLos%2BAngelos%252C%2BCA%2B90001%26service%3Dlgbt%26channel%3Dany%26page%3D1&pa=purchase&ta=www.plannedparenthood.org&ec=gtm_monitor&ea=gtm.linkClick&eti=1684424663266&el=1684423339270;727;false;GA1.2.318740178.1684307308&prid=99&prnm=unnamed%20tag%20with%20ID%3A%2099&priva=success&prica=gtm.linkClick&pribr=%2Fhealth-center&pr1qt=1&pr1pr=272.00&pr2id=421&pr2nm=unnamed%20tag%20with%20ID%3A%20421&pr2va=success&pr2ca=gtm.linkClick&pr2br=%2Fhealth-center&pr2qt=1&pr2pr=7.00&pr3id=461&pr3nm=UA%20-%20Event%20-%20HC%20Search%20Results%20-%20Request%20An%20Appointment&pr3va=success&pr3ca=gtm.linkClick&pr3br=%2Fhealth-center&pr3qt=1&pr3pr=9.00&pr4id=250&pr4nm=unnamed%20tag%20with%20ID%3A%202507&pr4va=success&pr4ca=gtm.linkClick&pr4br=%2Fhealth-center&pr4qt=1&pr4pr=242.00&tr=4.00&ev=4
```

## HEADERS

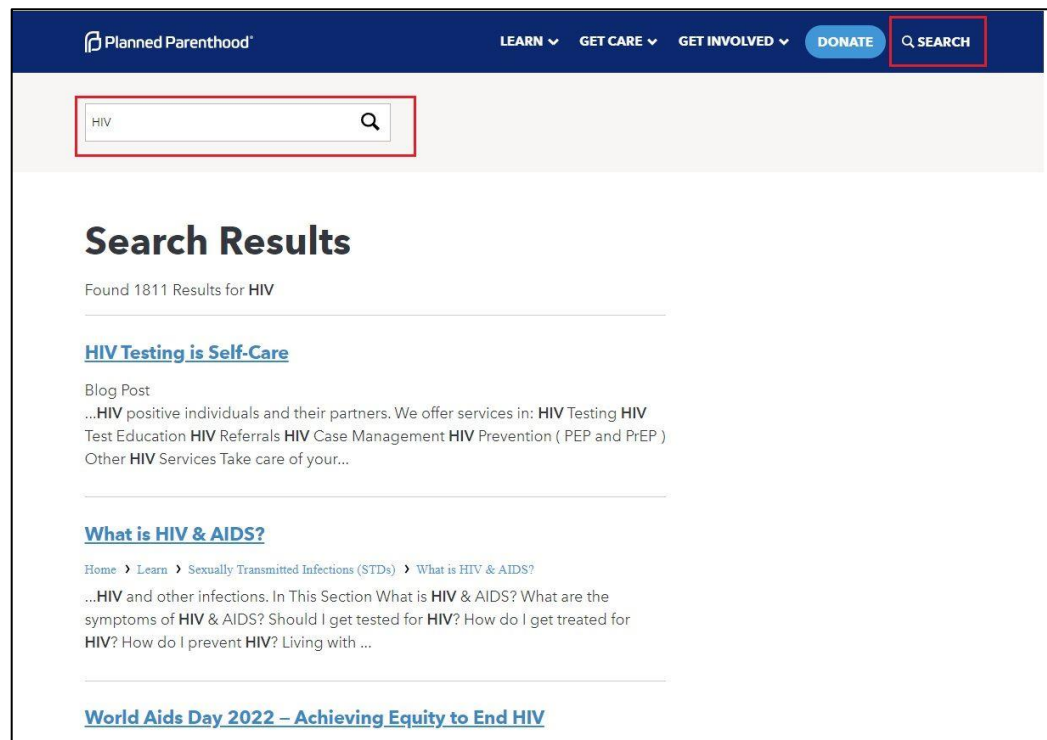
```
+ accept: image/avif,image/webp,image/apng,image/svg+xml,image/*,*/*;q=0.8
+ accept-encoding: gzip, deflate, br
+ accept-language: en-US,en;q=0.9
+ connection: keep-alive
+ host: www.google-analytics.com
+ referer: https://www.plannedparenthood.org/
  sec-ch-ua: "Google Chrome";v="113", "Chromium";v="113", "Not-A.Brand";v="24"
  sec-ch-ua-mobile: ?0
  sec-ch-ua-platform: "Windows"
+ sec-fetch-dest: image
+ sec-fetch-mode: no-cors
+ sec-fetch-site: cross-site
```

122. Furthermore, as previously alleged, information communicated and shared by Website users through the search bar on the Website is also unlawfully disclosed to the Third Parties. Notably, users can input anything into the search bar,

<sup>67</sup> Screenshot taken on May 18-19, 2023 via Chrome web browser.

so there is a seemingly endless amount of private and personal information that is unlawfully disclosed by Planned Parenthood to the Third Parties via its search bar. The example below shows what is transmitted to the Third Parties when a Website user searches for information and services related to HIV. The transmitted information includes PII that reveals the Website user's identity to the Third Parties, along with all of the other inherently sensitive information that the user communicated on the Website when searching for information and services related to HIV.

68



68 Screenshot taken on May 18-19, 2023 via Chrome web browser.

69

+ https://www.facebook.com/tr/?id=433242851216452&ev=PageView&dl=https%3A%2F%2Fwww.plannedparenthood.org%2Fsearch%3Fq%3DHIV%2B&rl=https%3A%2F%2Fwww.plannedparenthood.org%2F&it=false&ts=1684477278248&sw=1920&sh=1080&v=2.9.104&r=stable&sec=0&o=29&fbp=fb.1.1684307320145.687633086&it=1684477278195&coo=false&dpo=&tm=1&rqm=GET

## HEADERS

+ accept: image/avif,image/webp,image/apng,image/svg+xml,image/\*,\*/\*;q=0.8  
 + accept-encoding: gzip, deflate, br  
 + accept-language: en-US,en;q=0.9  
 + connection: keep-alive  
 + cookie: sb=kOBlZJeVAFdU7pQ1e95Q-s62; datr=kOBlZPmhpe-kqAnemdQf6j70; locale=en\_US; dpr=1; c\_user=1212; s=26%3A-2evcb-0dm\_p-A%3A2%3A1684599194%3A-1%3A15165; fr=0i6WZZzQyQcKUb07J.AWUd63xxrIjdt3l0sZKNUd0VDCY.BkZeCQ.wn.AAA.0.0.BkZeRc.AWUzh4HGWBa  
 + host: www.facebook.com  
 + referer: https://www.plannedparenthood.org/  
 sec-ch-ua: "Google Chrome";v="113", "Chromium";v="113", "Not-A.Brand";v="24"

70

+ https://googleads.g.doubleclick.net/pagead/viewthroughconversion/792381940/?random=1684477272584&cv=11&fst=1684477272584&bg=ffffff&guid=ON&asyn=16&tm=45He35h0&u\_w=1920&u\_h=1080&url=https%3A%2F%2Fwww.plannedparenthood.org%2Fsearch%3Fq%3DHIV%2B&ref=https%3A%2F%2Fwww.plannedparenthood.org%2F&hn=www.googleadservices.com&frm=0&t1ba=Search%20Results&auid=524117785.1684307308&uaa=x86&uab=64&uafvl=Google%2520Chrome%3B113.0.5672.127%7CChromium%3B113.0.5672.127%7CNot-A.Brand%3B24.0.0.0&uamb=0&uap=Windows&uapv=15.0.0&uaw=0&rfmt=3&fmt=4

## HEADERS

+ accept: /\*/\*  
 + accept-encoding: gzip, deflate, br  
 + accept-language: en-US,en;q=0.9  
 + connection: keep-alive  
 + cookie: IDE=AHWqTuk88j4lEyoBSxnBLCIjFagQqoTJvMV3b-MDGGJNSLPesb51-GRZxQyOjqgh0l8  
 + host: googleads.g.doubleclick.net  
 + referer: https://www.plannedparenthood.org/  
 sec-ch-ua: "Google Chrome";v="113", "Chromium";v="113", "Not-A.Brand";v="24"  
 sec-ch-ua-mobile: ?0  
 sec-ch-ua-platform: "Windows"  
 + sec-fetch-dest: script  
 + sec-fetch-mode: no-cors

<sup>69</sup> Screenshot taken on May 18-19, 2023 via Chrome web browser.

<sup>70</sup> Screenshot taken on May 18-19, 2023 via Chrome web browser.



71

```
+ https://bat.bing.com/action/0?ti=5061699&tm=gtm002&Ver=2&mid=55d79
7ab-4b17-400a-9df0-4cdeec748672&sid=a07d7840f48111eda413b5a45aaa7bb1
&vid=a07d88a0f48111eda8fe034b7465f171&vids=0&mssclid=N&uach=pv%3D15.
0.0&pi=918639831&lg=en-US&sw=1920&sh=1080&sc=24&tl=Search%20results&
p=https%3A%2F%2Fwww.plannedparenthood.org%2Fsearch%3Fq%3DHIIV%2B&r=ht
tps%3A%2F%2Fwww.plannedparenthood.org%2F&lt=5135&evt=pageLoad&sv=1&r
n=536071
```

## HEADERS

```
+ accept: image/avif,image/webp,image/apng,image/svg+xml
,image/*,*/*;q=0.8
+ accept-encoding: gzip, deflate, br
+ accept-language: en-US,en;q=0.9
+ connection: keep-alive
+ cookie: MUID=341FB0B564746B1B1D98A3A165F06A68; MR=0
+ host: bat.bing.com
+ referer: https://www.plannedparenthood.org/
sec-ch-ua: "Google Chrome";v="113", "Chromium";v="113",
"Not-A.Brand";v="24"
sec-ch-ua-mobile: ?0
```

72

```
+ https://sp.analytics.yahoo.com/sp.pl?a=10000&d=Fri%2C%2019%20May%2
02023%2006%3A21%3A12%20GMT&n=-3d&b=Search%20Results&yp=10095773&f=h
ttps%3A%2F%2Fwww.plannedparenthood.org%2Fsearch%3Fq%3DHIIV%2B&e=http
s%3A%2F%2Fwww.plannedparenthood.org%2F&enc=UTF-8&yv=1.14.0&tagmgr=gt
m
```

## HEADERS

```
+ accept: image/avif,image/webp,image/apng,image/svg+xml
,image/*,*/*;q=0.8
+ accept-encoding: gzip, deflate, br
+ accept-language: en-US,en;q=0.9
+ connection: keep-alive
+ cookie: A3=d=AQABBHJ9ZGQCEJ1vjeo203iNX6oQ4VI4-
5gFEgEBAQH0ZWRuZnNr0iMA_eMAAA&S=AQAAAKBCNiISKJ
MTZrsC3djXl_c; IDSYNC=1769~2bov
+ host: sp.analytics.yahoo.com
+ referer: https://www.plannedparenthood.org/
sec-ch-ua: "Google Chrome";v="113", "Chromium";v="113",
"Not-A.Brand";v="24"
sec-ch-ua-mobile: ?0
```

<sup>71</sup> Screenshot taken on May 18-19, 2023 via Chrome web browser.

<sup>72</sup> Screenshot taken on May 18-19, 2023 via Chrome web browser.

123. The above illustrations highlight just some of the vast information Planned Parenthood unlawfully discloses to the Third Parties and unlawfully aids the Third Parties to intercept. Taken together, this information reveals not only the identity of Planned Parenthood Website users, but it also gives the Third Parties access to their inherently sensitive and private healthcare information.

**VI. Planned Parenthood is Aware that Plaintiffs' and Class Members' Communications They Unlawfully Disclose Include PHI and Other Sensitive PII**

124. By design of the Tracking Codes Planned Parenthood chooses to utilize on its Website, it was well aware that placing the Tracking Codes on its Website would result in the unlawful disclosure and use of Plaintiffs' and class members' PHI and other sensitive PII that reveals a person's identity to the Third Parties.

125. Further, as a covered entity under HIPAA, Planned Parenthood is required by law to know the types of information it collects and how it is supposed to preserve and maintain it.

**VII. Plaintiffs and Other Class Members Suffered Great Harm as a Result of the Unlawful Disclosure of Their PHI and Other Sensitive PII**

126. Businesses have been built around the collection of personal data as "data is widely considered to be among the world's most valuable resources" because of the potential revenue and business value it can provide. Personal data has been recognized as "a valuable commodity, similar to commodities like oil and gold."<sup>73</sup>

127. The Federal Trade Commission ("FTC") has identified data collected about a person's precise location and information about their health as the most sensitive categories of data collected. Standing alone, these data points "pose an incalculable risk to personal privacy," but when technology companies collect the data,

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<sup>73</sup> See Cherukuri, Vijay, *Data: The Most Valuable Commodity for Business*, KD Nuggets, Mar. 1, 2022, available at <https://www.kdnuggets.com/2022/03/data-valuable-commodity-businesses.html> (last accessed Aug. 1, 2023).

1 combine it and sell or monetize it, this amounts to an “unprecedented intrusion” and  
2 creates a “new frontier of potential harms to consumers.”<sup>74</sup>

3 128. For example, the FTC recently settled a lawsuit against Flo Health,  
4 alleging that the company shared sensitive health information with Google and Meta  
5 collected from its period and fertility tracking app, despite promising to keep this  
6 information private. The FTC warns that the misuse of such health information,  
7 including reproductive health data, exposes consumers to significant harm because:  
8 (i) criminals can use the health data to facilitate phishing scams or commit identity  
9 theft; (ii) stalkers or other criminals can use the data to inflict physical and emotional  
10 injury; and (iii) the exposure of health information and medical conditions can subject  
11 people to discrimination, stigma, mental anguish and other serious harms.<sup>75</sup>

12 129. Chris Bowen, the Chief Privacy and Security Officer for ClearData,  
13 explained that health information is so valuable because “[y]ou can build [an] entire  
14 human persona around a health record. You can create or seek medical treatment,  
15 abuse drugs, or get prescriptions.”<sup>76</sup> This is part of the reason why healthcare data  
16 may be valued at up to \$250 per record on the black market.<sup>77</sup>

17 130. However, personal data is not just valuable to criminals. It is common  
18 knowledge that there is an economic market for consumers’ personal data, including  
19 the PHI and other sensitive PII Planned Parenthood collects from Plaintiffs and other  
20 class members.

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23 <sup>74</sup> See Location, *supra* footnote 9.

24 <sup>75</sup> *Id.*

25 <sup>76</sup> Maddox, Will, *Why Medical Data is 50 Times More Valuable Than a Credit Card*,  
26 DMagazine, Oct. 15, 2019, *available at* <https://www.dmagazine.com/healthcare-business/2019/10/why-medical-data-is-50-times-more-valuable-than-a-credit-card/>  
(last accessed Aug. 1, 2023).

27 <sup>77</sup> Hackers, Breaches, and the Value of Healthcare Data, *imprivata*, June 30, 2021,  
28 *available at* <https://www.imprivata.com/blog/healthcare-data-new-prize-hackers>  
(last accessed Aug. 1, 2023).



131. Healthcare providers, such as Planned Parenthood, “sit on treasure troves: a stockpile of patient health data stored as electronic medical records.”<sup>78</sup> These “files show what people are sick with, how they were treated, and what happened next.”<sup>79</sup> Taken together, “they’re hugely valuable resources for medical discovery.”<sup>80</sup>

132. Even when healthcare providers de-identify records by removing identifying information such as names, locations and phone numbers, healthcare providers can still sell the data to partners for research.

133. Unsurprisingly, healthcare groups have taken advantage of de-identifying medical records. For instance, the Mayo Clinic in Rochester, Minnesota is working with a startup company to develop algorithms in order to diagnose and manage conditions based on health data.<sup>81</sup>

134. Given the significant monetary value of PHI, Planned Parenthood has deprived Plaintiffs and the class members of the economic value of their PHI by acquiring and disclosing such data without providing proper consideration for their property.

#### **VIII. Plaintiff Shirley Hinton’s Experience with the Website**

135. Shirley Hinton is an adult California resident and visited Planned Parenthood’s Website on numerous occasions over the one year prior to filing this action.

136. She first started using the Website in the early 2000s, and she has used it as recently as September 2024.

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<sup>78</sup> Westman, Nicole, *Hospitals are selling treasure troves of medical data – what could go wrong?*, The Verge, June 23, 2021, available at <https://www.theverge.com/2021/6/23/22547397/medical-records-health-data-hospitals-research> (last accessed Aug. 1, 2023).

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

1           137. She has used the Website for Women's Services and other personal  
2 healthcare during the relevant time period, including to schedule appointments and  
3 research Women's Services and other healthcare information.

4           138. As part of obtaining Women's Services from Planned Parenthood, she  
5 receives various communications from Planned Parenthood including by phone call,  
6 text message and email. She has also seen advertisements for Planned Parenthood  
7 while residing in California, and it is always one of the first names to appear when  
8 conducting an Internet search on a browser via a search engine, like Google, for sexual  
9 and reproductive healthcare services in California.

10           139. Ms. Hinton has also used the search bar on the Website during the  
11 relevant time period searching for information and appointments related to Women's  
12 Services and other healthcare.

13           140. She primarily accesses and uses the Website on a browser through her  
14 cellphone.

15           141. Over the past year, Ms. Hinton conveyed significant healthcare and other  
16 personal information on the Website, including research related to Women's Services,  
17 when and where she schedules appointments for Women's Services, the types of  
18 medical treatment she seeks through Planned Parenthood, the specialty and names  
19 of the providers with whom she seeks treatment with, the locations of the Planned  
20 Parenthood facilities she wishes to go to and prescriptions she researches, seeks and  
21 is provided. She also has simultaneously communicated considerable PII alongside  
22 this information, including, but not limited to, her IP address and FID.

23           142. While using the Website, including to research and schedule  
24 appointments, Ms. Hinton not only never agreed or consented to Planned Parenthood's  
25 Privacy Policy or Terms of Service, but she never even saw its Privacy Policy or Terms  
26 of Service. She also never consented in any way to the disclosure of her PHI and other  
27 PII that revealed her identity.

1           143. Unbeknownst to Ms. Hinton, Planned Parenthood allowed the Third  
2 Parties to have real-time access to her communications on the Website because she  
3 accessed the Website, embedded with all of the Tracking Codes, on various web  
4 browsers on her mobile phone and iPad.

5           144. The Third Parties utilized this access to surreptitiously gather Ms.  
6 Hinton's sensitive PHI, which includes information related to Women's Services, and  
7 other PII. This information taken together reveals her specific identity and specific  
8 communications on the Website to the Third Parties.

9           145. Ms. Hinton did not consent to the disclosure or interception of her  
10 electronic communications with Planned Parenthood to the Third Parties, and she  
11 never provided a signed authorization for the release of her medical information.

12           146. Ms. Hinton never visited the Third Parties' websites to review their  
13 separate terms of use and/or privacy policies because she was unaware that Planned  
14 Parenthood shared her PHI and other sensitive PII that revealed her identity with the  
15 Third Parties. She was not even aware that the Tracking Codes were embedded on  
16 the Website.

17           147. Ms. Hinton provided her PHI and other sensitive PII with the reasonable  
18 expectation that Planned Parenthood is prohibited from disclosing it as a covered  
19 entity under HIPAA, in addition to the express and implied assurances of  
20 confidentiality it makes on its Website.

21           148. When she accessed the Website, the Third Parties collected her PHI and  
22 other sensitive PII from Planned Parenthood and had already collected some or all of  
23 her personal information from other websites in their wiretap networks.

24           149. Thus, the Third Parties were able to link Ms. Hinton's previous browsing  
25 activity on other websites with her intercepted activity on the Website, revealing and  
26 connecting an enormous amount of private information about herself.

27           150. As a result, the Third Parties used her unlawfully collected data to  
28 improve their own products, services and algorithms, and the Third Parties

1 improperly viewed and used her PHI and other sensitive PII in connection with  
2 targeted marketing to bolster profits.

3 151. In order to receive the best care from Planned Parenthood and its  
4 healthcare providers, Ms. Hinton is required to use the Website because it is the only  
5 centralized location where she can research the various treatment options and  
6 providers offered by Planned Parenthood and book appointments related to her  
7 specific healthcare needs, including for Women's Services.

8 152. Ms. Hinton has never donated to Planned Parenthood.

9 153. Ms. Hinton has had a Facebook account since 2007, which she uses every  
10 day. She does not explicitly log out of Facebook when she is done using it.

#### 11 **IX. Plaintiff Heather Shipley's Experience with the Website**

12 154. Heather Shipley is an adult California resident and visited Planned  
13 Parenthood's Website on numerous occasions over the one year prior to filing this  
14 action.

15 155. She first started using the Website in 2020, and she has used it as  
16 recently as October 2024.

17 156. She has used the Website for Women's Services and other personal  
18 healthcare during the relevant time period, including to schedule appointments and  
19 research Women's Services and other healthcare information.

20 157. As part of obtaining Women's Services from Planned Parenthood, she  
21 receives various communications from Planned Parenthood including by phone call,  
22 text message and email. She has also seen advertisements for Planned Parenthood  
23 while residing in California, and it is always one of the first names to appear when  
24 conducting an Internet search on a browser via a search engine, like Google, for sexual  
25 and reproductive healthcare services in California.

26 158. Ms. Shipley has also used the search bar on the Website during the  
27 relevant time period searching for information and appointments related to Women's  
28 Services and other healthcare.

1           159. She primarily accesses and uses the Website on a browser through her  
2 cellphone and computer.

3           160. Over the past year, Ms. Shipley conveyed significant healthcare and  
4 other personal information on the Website, including research related to Women's  
5 Services, when and where she schedules appointments for Women's Services, the  
6 types of medical treatment she seeks through Planned Parenthood, the specialty and  
7 names of the providers with whom she seeks treatment with, the locations of the  
8 Planned Parenthood facilities she wishes to go to and prescriptions she researches,  
9 seeks and is provided. She also has simultaneously communicated considerable PII  
10 alongside this information, including, but not limited to, her IP address and FID.

11           161. While using the Website, including to research and schedule  
12 appointments, Ms. Shipley not only never agreed or consented to Planned  
13 Parenthood's Privacy Policy or Terms of Service, but she never even saw its Privacy  
14 Policy or Terms of Service. She also never consented in any way to the disclosure of  
15 her PHI and other PII that revealed her identity.

16           162. Unbeknownst to Ms. Shipley, Planned Parenthood allowed the Third  
17 Parties to have real-time access to her communications on the Website because she  
18 accessed the Website, embedded with all of the Tracking Codes, on various web  
19 browsers on her mobile phone and computer.

20           163. The Third Parties utilized this access to surreptitiously gather Ms.  
21 Shipley's sensitive PHI, which includes information related to Women's Services, and  
22 other PII. This information taken together reveals her specific identity and specific  
23 communications on the Website to the Third Parties.

24           164. Ms. Shipley did not consent to the disclosure or interception of her  
25 electronic communications with Planned Parenthood to the Third Parties, and she  
26 never provided a signed authorization for the release of her medical information.

27           165. Ms. Shipley never visited the Third Parties' websites to review their  
28 separate terms of use and/or privacy policies because she was unaware that Planned

1 Parenthood shared her PHI and other sensitive PII that revealed her identity with the  
2 Third Parties. She was not even aware that the Tracking Codes were embedded on  
3 the Website.

4 166. Ms. Shipley provided her PHI and other sensitive PII with the reasonable  
5 expectation that Planned Parenthood is prohibited from disclosing it as a covered  
6 entity under HIPAA, in addition to the express and implied assurances of  
7 confidentiality it makes on its Website.

8 167. When she accessed the Website, the Third Parties collected her PHI and  
9 other sensitive PII from Planned Parenthood and had already collected some or all of  
10 her personal information from other websites in their wiretap networks.

11 168. Thus, the Third Parties were able to link Ms. Shipley's previous browsing  
12 activity on other websites with her intercepted activity on the Website, revealing and  
13 connecting an enormous amount of private information about herself.

14 169. As a result, the Third Parties used her unlawfully collected data to  
15 improve their own products, services and algorithms, and the Third Parties  
16 improperly viewed and used her PHI and other sensitive PII in connection with  
17 targeted marketing to bolster profits.

18 170. In order to receive the best care from Planned Parenthood and its  
19 healthcare providers, Ms. Shipley is required to use the Website because it is the only  
20 centralized location where she can research the various treatment options and  
21 providers offered by Planned Parenthood and book appointments related to her  
22 specific healthcare needs, including for Women's Services.

23 171. Ms. Shipley has never donated to Planned Parenthood.

24 172. Ms. Shipley has had a Facebook account since 2014, which she uses  
25 weekly. She does not explicitly log out of Facebook when she is done using it.

**TOLLING, CONCEALMENT AND ESTOPPEL**

173. The applicable statutes of limitation have been tolled as a result of Planned Parenthood's knowing and active concealment and denial of the facts alleged herein.

174. Planned Parenthood has secretly incorporated the Tracking Codes into its Website, providing no indication to Website users researching healthcare and scheduling appointments that they were interacting with a Website that shares their data, which includes highly private and personal sexual and reproductive health information and other sensitive PII that reveals their specific identity, with the Third Parties.

175. Planned Parenthood had exclusive knowledge that its Website incorporated all of the Tracking Codes, yet it failed to disclose that fact to its Website users. It also failed to properly disclose to Plaintiffs and class members that by interacting with the Website, their PHI, including private and personal sexual and reproductive health information, and other sensitive PII would be disclosed to and intercepted by the Third Parties, revealing not only their identity but also a significant amount of healthcare information about themselves.

176. Plaintiffs and class members could not with due diligence have discovered the full scope of Planned Parenthood's and the Third Parties' conduct because it is highly technical and there were no disclosures or other indications that would inform a reasonable consumer that Planned Parenthood was disclosing, and assisting the Third Parties in intercepting, their Website users' PHI and other sensitive PII from the Website.

177. The earliest Plaintiffs and class members could have known about Planned Parenthood's conduct was shortly before the filing of this Complaint.

178. Planned Parenthood was under a duty to disclose the nature and significance of its data collection practices but did not do so. It is therefore estopped from relying on any statute of limitations under the discovery rule.



179. Additionally, Planned Parenthood engaged in fraudulent conduct to prevent Plaintiffs and class members from discovering the disclosure and interception of their PHI and other sensitive PII. Planned Parenthood misled Plaintiffs and class members to believe their data, which includes incredibly private and personal sexual and reproductive health information as well as PII revealing their identity, would not be disclosed or intercepted.

180. Plaintiffs and class members were not aware that Planned Parenthood disclosed and assisted in the interception of their data, which includes PHI and other sensitive PII that revealed their identities.

181. Plaintiffs and class members exercised due diligence to uncover the facts alleged herein and did not have actual or constructive knowledge of Planned Parenthood's misconduct by virtue of its fraudulent concealment.

182. Accordingly, all statutes of limitation are tolled under the doctrine of fraudulent concealment.

### **CLASS ALLEGATIONS**

183. Plaintiffs bring this action both on behalf of themselves and all others similarly situated (the "Class") pursuant to Federal Rules of Civil Procedure 23(a), (b)(2) and (b)(3). The Class is defined as follows:

All natural persons who, during the class period, used the Planned Parenthood Website in California and had their private medical information or other sensitive personal or personally identifiable information unlawfully disclosed to third parties.

Specifically excluded from this Class are Defendant, its officers, directors or employees, any entity in which Defendant has a controlling interest and any affiliate, legal representative, heir or assign of Defendant. Also excluded from this Class are any judicial officers presiding over this action, the members of the judicial officer's immediate family and staff and any juror assigned to this action.

184. Certification of Plaintiffs' claims for class-wide treatment is appropriate because Plaintiffs can prove the elements of their claims on a class-wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claims.

185. Class Identity: The Class is readily identifiable and one for which adequate records exist.

186. Numerosity: The members of the Class are so numerous that their individual joinder is impractical, and the Class is reasonably believed to include hundreds of thousands of persons. Further, the size and relatively modest value of the claims of individual Class members renders joinder impractical. The precise number or identification of Class members is presently unknown to Plaintiffs but may be ascertained from Planned Parenthood's and third parties' records. Class members may be notified of the pendency of this action by mail, email, Internet postings and publication.

187. Typicality: Plaintiffs' claims are typical of the claims of the Class members because Plaintiffs are individuals who had their PHI and other sensitive PII unlawfully disclosed, collected, captured, received or otherwise obtained and/or used and stored by various third parties without her knowledge or consent. Plaintiffs' claims arise from the same common course of conduct, give rise to the same claims of injury and seek the same relief as those of the other Class members.

188. Common Questions Predominate: Questions of law and fact common to the Class, which generate common answers, include, but are not limited to:

- a. Whether Planned Parenthood's Terms of Use and/or Privacy Policy applies to Plaintiffs and Class members;
- b. Whether Planned Parenthood provided adequate and proper notice to Plaintiffs and Class members that it discloses their PHI and other sensitive PII that reveals their identity;
- c. Whether Planned Parenthood received the required consent from Plaintiffs and Class members needed in order to disclose their PHI and other sensitive PII that reveals their identity; and
- d. Whether Plaintiffs and Class members are entitled to damages under CIPA or any other relevant statute.

189. These and other questions of law and fact common to all members of the Class predominate over questions affecting only individual members of the Class.

1           190. Adequacy: Plaintiffs will fairly and adequately protect the interests of  
2 the Class because Plaintiffs' interests are aligned with, and are not antagonistic to,  
3 those of the other Class members. Plaintiffs have retained counsel competent and  
4 experienced in the prosecution of complex and class action litigation to represent  
5 herself and the Class.

6           191. Superiority: A class action is superior to other available methods for the  
7 fair and efficient adjudication of this controversy for the following reasons: (i)  
8 individual joinder of all Class members is impractical; (ii) prosecution as a class action  
9 will eliminate the possibility of duplicative litigation; (iii) prosecution of separate  
10 actions by individual Class members would create the risk of inconsistent or varying  
11 decisions and adjudications, creating uncertain and potentially incompatible  
12 standards for adjudicating the claims and defenses asserted in this action; (iv) the  
13 relatively small amount of damages suffered by individual Class members, when  
14 compared to the expense and burden of individual prosecution of their individual  
15 claims, preclude feasible and practical individual actions to seek redress for the  
16 violations alleged; and (v) individual litigation would greatly magnify the delay and  
17 expense to all parties and to the court system. For these reasons, a class action will  
18 reduce case management difficulties and provide the benefits of unitary adjudication,  
19 economy of scale and comprehensive supervision by a single court.

20           192. In addition, Planned Parenthood has acted on grounds generally  
21 applicable to the Class, making final injunctive relief appropriate for the Class as a  
22 whole.

23                   **CALIFORNIA LAW APPLIES TO THE ENTIRE CLASS**

24           193. California substantive law applies to Plaintiffs and every member of the  
25 Class. California's substantive laws may be constitutionally applied to the claims of  
26 Plaintiffs and the other members of the Class under the Due Process Clause, 14th  
27 Amend. § 1 and the Full Faith and Credit Clause, Art. IV § of the United States  
28 Constitution.

194. California has significant contacts, or significant aggregation of contacts, to the claims asserted by Plaintiffs and Class members, thereby creating state interests to ensure that the choice of California state law is not arbitrary or unfair.

195. As aforementioned, Planned Parenthood conducts substantial business in California such that California has an interest in regulating Planned Parenthood's conduct under its laws.

196. The application of California laws to the Class is also appropriate under California's choice of law rules because California has significant contacts to the claims of Plaintiffs and the proposed Class, and California has a greater interest than any other interested state in applying its laws here given Planned Parenthood's facilities throughout California and the location of the conduct at issue.

## COUNT I

### Violation of the California Invasion of Privacy Act

#### Cal. Penal Code § 631

#### (On Behalf of Plaintiffs and the Class)

197. Plaintiffs repeat the allegations contained in the paragraphs above as if fully set forth herein and bring this count individually and on behalf of the members of the Class.

198. The CIPA is codified at Cal. Penal Code §§ 630 to 638. CIPA begins with its statement of purpose that it is to "protect the right of privacy of the people of [California]" from the threat posed by "advances in science and technology [that] have led to the development of new devices and techniques for the purpose of eavesdropping upon private communications." Cal. Penal Code § 630.

199. Cal. Penal Code § 631 imposes liability on any person who "by means of any machine, instrument, contrivance, or in any other manner":

- (1) "intentionally taps, or makes any unauthorized connection . . . with any telegraph or telephone wire, line, cable, or instrument, including the wire, line, cable, or instrument;"

(2) “willfully and without the consent of all parties to the communication, or in any unauthorized manner, reads, or attempts to read, or to learn the contents or meaning of any message, report, or communication while the same is in transit or passing over any wire, line, or cable, or is being sent from, or received at any place within [the state of California];”

(3) “uses, or attempts to use, in any manner, or for any purpose, or to communicate in any way, any information so obtained;” or

(4) “aids, agrees with, employs, or conspires with any person or persons to unlawfully do, or permit, or cause to be done any of the acts of things mentioned above in this section.”

Cal. Penal Code § 631(a).

200. Planned Parenthood is a person for purposes of Cal. Penal Code § 631.

201. To avoid liability under Cal. Penal Code § 631(a), a defendant must show it had the consent of *all* parties to a communication.

202. At all relevant times, Planned Parenthood intentionally tapped or made an unauthorized connection with respect to Plaintiffs’ and Class members’ communications on its Website, which include PHI and other sensitive PII, by placing various Tracking Codes on its Website without the authorization and consent of Plaintiffs and the Class members, thereby violating CIPA. Planned Parenthood intentionally procured the Tracking Codes from the Third Parties and embedded and installed them on its Website.

203. At all relevant times, Planned Parenthood also aided, agreed with and conspired with the Third Parties to track and intercept Plaintiffs’ and Class members’ PHI and other sensitive PII while they accessed the Website. These communications were intercepted without the authorization and consent of Plaintiffs and Class members, thereby violating CIPA.

204. Planned Parenthood, when aiding and assisting the Third Parties’ wiretapping of its Website users’ communications and interactions on its Website, intended to provide benefit to the Third Parties and for the Third Parties to learn some meaning of the content intercepted.

205. Section 631(a)'s applicability is not limited to phone lines but also applies to "new technologies" such as computers, the Internet and email. *See Matera v. Google Inc.*, 2016 WL 8200619, at \*21 (N.D. Cal. Aug. 12, 2016) (CIPA applies to "new technologies" and must be construed broadly to effectuate its remedial purpose of protecting privacy); *Bradley v. Google, Inc.*, 2006 WL 3798134, at \*5-6 (N.D. Cal. Dec. 22, 2006) (CIPA governs "electronic communications"); *In re Facebook, Inc. Internet Tracking Litigation*, 956 F.3d 589 (9th Cir. 2020) (reversing dismissal of CIPA and common law privacy claims based on Facebook's collection of consumers' internet browsing history).

206. The following items constitute "machine[s], instrument[s], or contrivance[s]" under the CIPA, and even if they do not, which Plaintiffs deny, the Tracking Codes fall under the broad catch-all category of "any other manner":

- i. The computer codes and programs the Third Parties use to track Plaintiffs' and Class members' interactions and communications while they navigate the Website;
- ii. Plaintiffs' and Class members' browsers;
- iii. Plaintiffs' and Class members' computing and mobile devices;
- iv. Third Parties' web and advertisement servers; and
- v. The plans the Third Parties carried out to effectuate their tracking and interception of Plaintiffs' and Class members' communications while they were using a web browser or mobile application to access the Website.

207. The healthcare communication information that Planned Parenthood transmitted using the Tracking Codes, such as personal sexual and reproductive health and doctor appointment booking information, constituted PHI. Website users also communicate significant PII on the Website that Planned Parenthood simultaneously transmitted using the Tracking Codes. Taken together, the Third Parties can use the information that Planned Parenthood unlawfully discloses to it to identify a specific person and their actions and communications on the Website.

208. Planned Parenthood facilitated the interception and simultaneous transmission to the Third Parties and others of Plaintiffs' and Class members' PHI and other sensitive PII while the information was "in transit" and in real time. As a result of the Tracking Codes Planned Parenthood embedded on its Website, when users interacted with the Website, their communications were simultaneously redirected to the Third Parties while they were still on their way to Planned Parenthood.

209. The information communicated between Plaintiffs and Class members, Planned Parenthood and the Third Parties was transmitted to and/or from the state of California.

210. Redirection of data as a result of tracking coding before that data reaches its originally intended recipient (here, Planned Parenthood) does not constitute a separate communication for the purposes of exclusion from CIPA.

211. Planned Parenthood enabled non-parties to the communications to "read" the communications for the purposes of CIPA. For example, the Third Parties can see when individuals searched for doctors with particular specialties, what conditions they researched, when and where they made appointments and information they communicated related to Women's Services and Men's Services.

212. As demonstrated hereinabove, Planned Parenthood violated CIPA by:

- (1) intentionally tapping or making an unauthorized connection with respect to Plaintiffs' and Class members' communications, which include PHI and other sensitive PII, by placing various Tracking Codes on its Website, all without their Website users' authorization or consent; and
- (2) aiding and permitting the Third Parties to receive its Website users' interactions and communications on the Website without their authorization or consent.

*See* Cal. Penal Code § 631.

213. Cal. Penal Code § 637.2(a) provides:

Any person who has been injured by a violation of this chapter [including Penal Code § 631] may bring an action against the



1 person who committed the violation for the greater of the following  
2 amounts:

- 3 (1) Five thousand dollars (\$5,000) per violation;  
4 (2) Three times the amount of actual damages, if any,  
5 sustained by the plaintiff.

6 214. Cal. Penal Code § 637.2(b) provides that [a]ny person may . . . bring an  
7 action to enjoin and restrain any violation of this chapter, and may in the same action  
8 seek damages as provided by subdivision (a).”

9 215. Additionally, Cal. Penal Code § 637.2(c) states that “[it] is not a necessary  
10 prerequisite to an action pursuant to this section that the plaintiff has suffered, or be  
11 threatened with, actual damages.”

12 216. Therefore, Defendant is liable to Plaintiffs and the Class members for, at  
13 a minimum, statutory damages of \$5,000 per violation.

14 217. Plaintiffs and Class members are also entitled to injunctive relief, as they  
15 have suffered irreparable injury from the unauthorized and unlawful acts discussed  
16 herein, as their PHI, which includes personal sexual and reproductive health  
17 information, and other sensitive PII revealing their identity has been unlawfully  
18 collected, viewed, accessed and stored and poses an ongoing risk and threat of injury.

### 19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiffs, on behalf of themselves and the Proposed Class,  
21 respectfully pray for relief and judgment as follows:

- 22 A. For a determination that this action is a proper class action;  
23 B. For an order certifying the Class, naming Plaintiffs as representatives of  
24 the Class and naming Plaintiffs’ attorneys as Class Counsel to represent the Class;  
25 C. For an order declaring that Planned Parenthood's conduct violated the  
26 statutes referenced herein;  
27 D. For an order finding in favor of Plaintiffs and the Class members on all  
28 counts asserted herein;

1 E. For an award of compensatory damages, including statutory damages  
2 where available, to Plaintiffs and the Class members against Planned Parenthood for  
3 all damages sustained as a result of Planned Parenthood's wrongdoing, in an amount  
4 to be proven at trial;

5 F. For punitive damages, as warranted, in an amount to be determined at  
6 trial;

7 G. Ordering Defendant to disgorge revenues and benefits wrongfully  
8 obtained;

9 H. For prejudgment interest on all amounts awarded;

10 I. For injunctive relief as pleaded or as the Court may deem proper;

11 J. For an order awarding Plaintiffs and the Class members their reasonable  
12 attorneys' fees and expenses and costs of suit; and

13 K. For an order granting Plaintiffs and Class members such further relief  
14 as the Court deems appropriate.

15 **JURY DEMAND**

16 Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs demand a trial by  
17 jury of all of the claims asserted in this Complaint so triable.

18  
19  
20 Dated: November 25, 2024

Respectfully submitted,

21 By: /s/ Michael L. Silverman

22 Michael L. Silverman (admitted *pro hac vice*)

23 Klint L. Bruno (admitted *pro hac vice*)

24 Jamie A. Robinson (admitted *pro hac vice*)

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